

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Highfill-
Highfill Wastewater Treatment Plant
15036 West Highway 12
Gentry, AR 72734

LIS No. 24-149
Permit Number: 4911-WR-3
AFIN 04-01688

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 the City of Highfill- Highfill Wastewater Treatment Plant (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 decentralized wastewater treatment system with drip irrigation dispersal of the treated wastewater from the facility (“Facility”) located at 13437 Highway 264, Highfill, Benton County, Arkansas.
2. Respondent is regulated pursuant to the Arkansas Water and Air Pollution Control Act (“Act”), Ark. Code Ann. § 8-4-101 *et seq.*

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(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].

5. 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.

6. 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.”

7. DEQ issued No-Discharge Permit Number 4911-WR-2 (“Permit”) to Respondent on October 10, 2018, with an effective date of November 1, 2018. The Permit expired on October 31, 2023.

8. Part III, Condition 23 of the Permit requires Respondent to submit a complete permit renewal application at least 180 days prior to the expiration date of the Permit if the activity regulated by the Permit is to continue after the expiration date.

9. Respondent has operated this Facility beyond the expiration date of the current permit, October 31, 2023.

10. On November 15, 2022, and February 14, 2023, Respondent was notified that the Permit would expire on October 31, 2023, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than May 4, 2023.

11. On October 3, 2023, DEQ received a Permit renewal application from Respondent.

12. On November 6, 2023, DEQ notified Respondent that the permit renewal application was determined to be administratively complete.

13. The complete Permit renewal application was not received by May 4, 2023. Failure to submit the complete Permit renewal application by May 4, 2023, is a violation of Part III, Condition 23 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall continue to comply with the existing Permit until the effective date of the renewal permit or permit termination.

2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of One Thousand Dollars (\$1000.00), or one-half of the full civil penalty of Five Hundred Dollars (\$500.00) 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:

Division of Environmental Quality
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.

3. 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.

4. 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.

5. 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 the DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to sign this Order on behalf of Respondent. See Exhibit A.

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

SO ORDERED THIS 14 DAY OF October, 2024.

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

APPROVED AS TO FORM AND CONTENT:

City of Highfill

BY: 
(Signature)

Chris Holland
(Typed or printed name)

TITLE: Mayor

DATE: 9-10-24

**MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF HIGHFILL, BENTON COUNTY, ARKANSAS
HELD ON TUESDAY, SEPTEMBER 10, 2024**

The City Council of the City of Highfill, Benton County, Arkansas met in a regular session at the Highfill City Hall on Tuesday, September 10th, 2024, at 6:00pm. Mayor Chris Holland called the meeting to order. The group recited the Pledge of Allegiance.

Attendance Roll Call

Present – Mayor Chris Holland and Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. City Attorney Jay Williams was present. Council Members Jayme Thompson and Jack Loyd were absent.

Approval of Minutes

The minutes of the meeting of the City Council dated August 13, 2014 was presented. The mayor asked if there were any corrections or changes. Council Member Justin Allen made a motion to accept the minutes. Council Member Jessica Wilmoth seconded the motion. Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth voted in favor of the motion. Motion carries.

Open Hearing

The Mayor opened the floor for open hearing.

There were no other comments from the audience or online. Mayor Chris Holland closed the floor.

Old Business

There was no old business to come before the council.

New Business

Water Plan Presented by ESI

Jeff Dehnhardt with ESI presented a multiphase water project they have been working on. It involves booster pump, water main, and storage upgrades. He recommends these upgrades to accommodate the current demand as well as anticipated growth in Highfill. The first upgrade he recommends is a new booster pump station and 3 phase power electrical upgrades. The cost of this would be \$1.6 million. The second is adding 9-10 miles of water main extension from 8in - 18in. This includes storage capacity upgrades of up to 2 million gallons. The current tank is 0.5 million gallons. This would allow the city to be able to store more than one day of usage in case of an outage. This would cost \$22.1 million total with \$17.2 million for 18 inch mains and storage tank and \$3.2 million for 8 inch mains. The first phase needs to be quick because it has current needs in demand. He recommends private funding through the open bond market to speed up the process. His research showed 20-30 year loans at 5% interest. Since the 2nd phase is for growth potential, he proposed funding through public means such as a USDA Rural Development water and sewer loan. This would be about 4% interest for 40 years. It would also provide protection to the system since it is a federal loan. AR Natural Resource loans are also an option at 30

years for 4.5% interest but there is not the same protection of revenues. The first phase would take 6 months of design time, 3 months to get regulatory approvals, and 14 months of construction totalling about two years to completion. The second phase would take 12-18 months to get funding, 6 months to design, 3 months for regulatory approvals, 30 months for construction of the 18 in mains, and 9 months of construction of the 8 in mains, totalling about 4-5 years. These two projects could be worked on in tandem. There is a graphic available in the council packet. This project includes an 8 in main down Gailey Hollow Road. Mayor Holland shared they get calls from people every week requesting water down that road. Council Member Justin Allen asked if there was a metric of how many homes these upgrades would accommodate to help the council with city planning. Jeff said he will work on getting numbers of capacity. The goal is to provide for the next 20 years but the growth is difficult to predict. Ryan Declerk asked if it was possible to ask developers to help fund water needed to accommodate developments they want to build. Mayor Holland said that is an option and they may pay the portion of the project that will serve their development. Mayor Holland explained that these projects will be coming back to the council at multiple points in the projects. Jeff Dehnhardt explained that tonight ESI is looking for approval to get started with funding application on the second phase. The first phase would include the proposal, design work, and regulatory approval to get put out to bid as quickly as possible. Mayor Holland also added the third phase would be dependent on if Carrol Electric gets back to the city by next month. Council Member Justin Allen made a motion to move forward with all three phases. Council Member Shai Idelman seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Motion passed.

City of Highfill Arkansas 2025 Millage Resolution NO. 24-2024

Mayor Holland said this is the same millage as it has been for 20 years, they have to approve this every year. Council Member Jessica Wilmoth made a motion to accept Resolution No 24-2024. Council Member Matthew Summitt seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Resolution No 24-2024 passed.

Resolution Appointing Member to Position 5 — Highfill Parks Advisory Committee

There were two applicants but since neither could attend, the council decided to table this resolution. Council Member Matthew Summitt made a motion to table this resolution until the next meeting. Council Member Jessica Wilmoth seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Motion passed.

A Resolution Authorizing Execution of Lease Agreement for a New Copier NO. 25-2024

City Administrator Tiffany Ryan explained that the current copier has a folding capability that they never used and as a huge expense. They are also getting a cabinet to replace two extra drawers on the copier. They are getting a 5 year instead of a 2 year contract and it is cheaper. Department heads are on board. They will also be able to fax again. Tiffany Ryan estimated they used to pay \$200-\$300 and it will now be \$150.

Council Member Justin Allen made a motion to accept Resolution No 25-2024. Council Member Jessica Wilmoth seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Resolution No 25-2024 passed.

A Resolution Authorizing the Execution of a Memorandum of Understanding with the Arkansas Division of Emergency Management NO. 26-2024

Mayor Holland shared this is part of the Police Department's grant for a generator. It is a 75/ 25 grant where the grant pays for 75% of the cost of the project and the city pays 25%. If the total grant is \$92,000, the city will pay \$23,000. This will be in the budget if all goes well. Council Member Justin Allen made a motion to accept Resolution No 26-2024. Council Member Matthew Summitt seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Resolution No 26-2024 passed. Susan Hartman and Randy Stump of ER Assist out of Bentonville stepped forward to share that they are there to help prepare for disasters. The second part of this agreement is for the city to decide if they want to contract with ER Assist. They would partner to manage funding for the city. The 75/25 split would account for their services as well. They wanted the council to acknowledge they are okay with that being a part of the agreement. Council Member Shai Idelman made a motion to approve the grant manager's administrative fee will be written into the grant. Council Member Matthew Summitt seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Motion passed.

A Resolution Authorizing the Execution of a Memorandum of Understanding with the Northwest Arkansas Children Shelter NO. 27-2024

Mayor Holland shared the children's shelter reached out about providing police coverage about nine months ago. Chief Webb has been working with them. The children's shelter will pay the total cost but the officer would be under the direction of the Highfill Police Department. Chief Webb shared he feels this is an important need for the city to take on. The shelter has been working hard to get this funded. Mayor Holland shared their goal is to eventually have 24 hour coverage. There will be no cost to the city and it will not affect the current staffing since this will be an extra person whose sole responsibility would be the shelter. Council Member Justin Allen made a motion to accept Resolution No 27-2024. Council Member Jessica Wilmoth seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Resolution No 27-2024 passed.

ADEQ Resolution NO. 28-2024

Mayor Holland shared the sewer permit renewal was sent to the previous administration so it expired. They have been trying to remedy this situation and are left with a \$500 fine. Director of Public Works, Dustin Kahr shared this fine comes with no further action which is important to stay connected until the permit process is completed in November. The city will be connected to NACA in Q1 or Q2 of next year so the permit will only be for a short time. Ryan Declerk noticed there is an option to do a supplemental environmental project with half of the fee and asked if the council had considered that. Attorney Jay

Williams shared the fee is already discounted from \$1,000 and it would be better to pay it and not risk being late again. Council Member Justin Allen made a motion to accept Resolution No 28-2024. Council Member Shai Idelman seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Resolution No 28-2024 passed.

No additional new business was presented before the council.

Departmental Reports

Community Development – Director of Community Development, Jeremy Johnson submitted a written report.

Fire – Chief Cody Wynne had nothing new to report.

Police – Chief Blake Webb had nothing new to report.

Public Works – Director of Public Works, Dustin Kahrl shared the city's water loss last month was 19% which is the lowest in NWA. They fixed four leaks which most likely accounted for about half of that loss. The clutch on the dump truck broke and was fixed. They worked on road grading while the dump truck was down. They have one more brush hogging for the year before the grass is brown.

Parks – Mayor Holland shared that donations have been slower this year for the fall festival. The parks committee asked to be approved to spend \$1,000 to pay for the DJ out of the parks budget. The council agreed that could be paid for.

Financial Reports

The Financial Report for the month of August 2024 was presented for review. Council Member Justin Allen made a motion to accept the financials. Council Member Matthew Summitt seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Motion passed.

Community Events

Farmer's Market: every Saturday at City Park 8am until Noon

Fall Tree Giveaway: Tuesday, October 15th, 7am until gone

Fall Festival: Saturday, October 12th from 10am to 1pm

Christmas in the Park: Friday, December 6th at 5:30pm

Mayor's Report

Mayor Holland shared that the master planning committee would like to work with an engineering firm to help with the redesign of the city. They first considered engineering firm qualifications, then expertise, then capability to perform project, past performance on similar projects, and finally the proximity of the company. The committee went through this evaluation. The first recommendation is Garber Engineering the second is Crafton Tull. If the council approves, they will move forward with discussions with these companies. Council Member Justin Allen added that the purpose of these companies is to help the committee gather their ideas to grow the city the way the city wants it to be while contributing expertise in city design. Mayor Holland shared doing this will make future decisions for the city easier because

they will be able to refer to the land use map to decide what should be approved. The engineers will ask the questions that need to be considered in the city plan with the input of the citizens along the way. Council Member Matthew Summitt made a motion to approve Garber Engineering. Council Member Jessica Wilmoth seconded the motion. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes.

Council Discussion

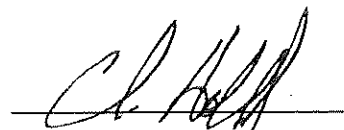
Mayor Chris Holland asked if there was any Council Discussion.

Council Member Jessica Wilmoth asked about the status of the park grant for Silver Meadows. Mayor Holland shared they needed authorization from the POA president but couldn't get him to respond. They have to wait until next year to try again.

Council Member Jessica Wilmoth asked if the speed limits between Silver Meadows and Woodward Hills could be consistent. The council decided to make them both 20 mph and make future subdivisions the same.

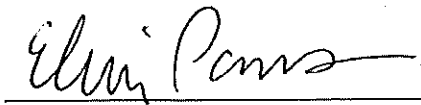
With there being no further discussion, a motion to adjourn was made by Council Member Justin Allen and seconded by Council Member Matthew Summitt. Voting in favor of the motion were Council Members Shai Idelman, Matthew Summitt, Justin Allen, and Jessica Wilmoth. There were no opposing votes. Meeting adjourned at 7:20 PM.

APPROVED:



Chris Holland, Mayor

ATTEST:



Eleni Parsons, Recorder

