

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Clampit, LLC  
7 Guarona Lane  
Hot Springs Village, AR 71909

LIS No. 20- 151  
Permit No. AR0052809  
AFIN 26-01018

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 regulations and rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of Clampit, LLC (Respondent) and the Division of Environmental Quality<sup>1</sup> (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 non-municipal wastewater treatment facility (“facility”) located at 5398 Highway 7 North, Hot Springs Village, Garland County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary, thence to Coleman Creek, thence to Middle Fork Saline River, thence to Saline River, thence to the Ouachita River in Segment 2F of the Ouachita River Basin.

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<sup>1</sup> Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

3. Respondent is regulated 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 an NPDES permit.
6. 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].
7. 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 regulation or permit issued pursuant to the Act.
8. 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.”
9. DEQ issued NPDES Permit Number AR0052809 (“Permit”) to Respondent on June 29, 2017. The Permit became effective on July 1, 2017, and expires on June 30, 2022.

### Effluent Violations

10. On December 7, 2017, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

11. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from September 1, 2017 through October 31, 2017:

- a. Two (2) violations of Total Suspended Solids;
- b. One (1) violation of pH;
- c. Two (2) violations of Ammonia Nitrogen;
- d. Two (2) violations of Fecal Coliform; and
- e. Three (3) violations of Carbonaceous Biochemical Oxygen Demand.

12. Each of the ten (10) discharge limitation violations listed in Paragraph 13 above constitutes a separate permit violation for a total of ten (10) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

13. On December 7, 2017, DEQ mailed respondent an Effluent Violations Warning Letter.

14. On January 10, 2018, DEQ conducted a review of certified DMRs submitted by Respondent in accordance with the Permit.

15. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from November 1, 2017 through November 30, 2017:

- a. One (1) violation of pH.

16. The one (1) discharge limitation violation listed in Paragraph 17 above constitutes a permit violation and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

17. On January 10, 2018, DEQ sent Respondent a Corrective Action Plan (CAP) request via email.
18. On April 23, 2018, DEQ conducted a review of certified DMRs submitted by Respondent in accordance with the Permit.
19. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from December 1, 2017 through February 28, 2018:
  - a. Two (2) violations of pH;
  - b. Four (4) violations of Carbonaceous Biochemical Oxygen Demand;
  - c. One (1) violation of Dissolved Oxygen; and
  - d. One (1) violation of Total Suspended Solids.
20. The eight (8) discharge limitation violations listed in Paragraph 21 above constitutes a separate permit violation for a total of eight (8) separate violations of Ark. Code Ann. § 8-4-217(a)(3).
21. On April 24, 2018, DEQ requested Respondent to submit a CAP to address the permit limitation violations.
22. On September 6, 2018, Engineers, Inc., on behalf of Respondent, submitted a letter to DEQ stating that a CAP would be submitted on or before September 14, 2018.
23. On September 13, 2018, Engineers, Inc., on behalf of Respondent, submitted a CAP to DEQ.
24. On September 19, 2018, DEQ notified Respondent that the CAP was approved with comments.

25. On January 31, 2019, Engineers, Inc., on behalf of Respondent, submitted a progress report with a final date of completion of February 28, 2019.

26. On February 21, 2019, Engineers, Inc., on behalf of Respondent, submitted a request for a pilot project to install a blower and double diffuser at each treatment unit followed by compliance monitoring at four (4) and eight (8) weeks after installation.

27. On March 15, 2019, DEQ notified Respondent via letter that a construction permit was not required for the improvements requested in the pilot project request dated February 21, 2019.

28. On December 4, 2019, DEQ conducted a review of certified DMRs submitted by Respondent in accordance with the Permit.

29. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from March 1, 2018, through September 30, 2019:

- a. One (1) violation of pH;
- b. Twenty-three (23) violations of Carbonaceous Biochemical Oxygen Demand;
- c. Two (2) violations of Oil & Grease;
- d. Eight (8) violations of Fecal Coliform;
- e. Two (2) violations of Dissolved Oxygen;
- f. Nineteen (19) violations of Total Suspended Solids; and
- g. One (1) violation of Ammonia Nitrogen.

30. The fifty-seven (57) discharge limitation violations listed in Paragraph 31 above constitutes a separate permit violation for a total of fifty-seven (57) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

### **Inspection Violations**

31. On March 15, 2019, DEQ conducted a routine compliance evaluation inspection of the facility. The inspection revealed the following violations of Part III.B.1.A of the Permit:

- a. The chlorinator was not being properly maintained. There were no chlorine tablets in the chlorinator at the time of inspection.
- b. The grease trap was not being properly maintained. The grease trap contained built-up waste.

These conditions violated Part III.B.1.A of the Permit and therefore violated Ark. Code Ann. § 8-4-217(a)(3).

32. On April 12, 2019, DEQ notified Respondent of the inspection results. On June 27, 2019, DEQ received Respondent's response to the violations cited in the inspection report.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately comply and certify compliance with all permitted effluent limits, unless a Revised Corrective Action Plan (RCAP) is submitted, as provided in Paragraph 2 of this Order, and approved by DEQ, in which case, Respondent shall comply with all permitted effluent limits no later than January 31, 2021.

2. If unable to comply immediately with all permitted effluent limits, Respondent shall, within thirty (30) calendar days of the effective date of this Order, submit to DEQ, for review and approval, a comprehensive RCAP developed by a Professional Engineer licensed in the state of Arkansas. The RCAP shall include, at minimum the methods and best available technologies that will be used to correct the violations listed in Findings of Fact and prevent future violations and include a reasonable milestone schedule with a date of final compliance no later than

January 31, 2021. Upon review and approval by DEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date contained in the approved RCAP. The milestone schedule and final compliance date of January 31, 2021 shall be fully enforceable as terms of this Order.

3. On or before the fifteenth (15th) day of the month following the effective date of this Order, and each quarter thereafter for a period lasting until this Order is closed, Respondent shall submit quarterly progress reports detailing the progress that has been made towards compliance with the final permitted effluent limits as set forth in Part I, Section A of the Permit. Respondent shall submit the final compliance report by January 31, 2021.

4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Two Thousand Five Hundred Dollars (\$2500.00), of which Two Thousand Dollars (\$2000.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of Two Thousand Dollars (\$2000.00) shall be DISMISSED by DEQ. Payment of Five Hundred Dollars (\$500.00) is due within thirty (30) calendar days of the effective date of this Order. Such 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

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, or fails to pay the reduced sum of Five Hundred Dollars (\$500.00), the full balance of Two Thousand Five Hundred Dollars (\$2500.00) 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Regulation No. 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 Regulation No. 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.

10. 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.

11. By virtue of the signature appearing below, the individual represents that he or she is a Managing Member of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein as attested by the secretary of said entity. Execution of this Order by an individual other than a Managing Member 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 6th DAY OF MAY, 2020.

*Becky W Keogh*

BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

Clampit, LLC

BY: 

(Signature)

*Joey Clampit*  
\_\_\_\_\_  
(Typed or printed name)

TITLE: *Owner*

DATE: *4-24-20*