

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Stamps
207 East Antigo
Stamps, AR 71860

LIS No. 19- 040
Permit No. AR0048305
AFIN 37-00030

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (“Order”) 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.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1311 *et seq.*, and the regulations issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the City of Stamps (“Respondent”) and the Arkansas Department of Environmental Quality (ADEQ or “Department”), 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 wastewater treatment facility (“Facility”) located southwest of Stamps on Skelly Road in Lafayette County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary of Bodcau Creek, thence to Bodcau Creek, thence to Lake Erling in Segment 1A of the Red River Basin.
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. ADEQ is authorized under the Arkansas Water and Air Pollution Control 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, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].

7. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes ADEQ 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. NPDES Permit Number AR0048305 (“Permit”) was issued to Respondent on August 26, 2013. The Permit became effective on September 1, 2013, and expired on August 31, 2018.

10. Part III, Section D, Condition 10 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.

11. Respondent intends to operate this Facility beyond the expiration date of the current permit, August 31, 2018.

12. On September 1, 2017 and December 1, 2017, Respondent was notified that the Permit would expire on August 31, 2018, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than March 4, 2018.

13. The Department received an incomplete application for Permit renewal from Respondent on February 21, 2018, and notified Respondent that its application was incomplete on February 25, 2018.

14. Respondent submitted additional information on April 6, 2018. On April 20, 2018, the Department notified Respondent that its application for Permit renewal was again deemed administratively incomplete.

15. Respondent submitted additional information on April 23, 2018. On April 25, 2018, the Department notified Respondent that its application for Permit renewal was deemed administratively complete on April 24, 2018.

16. The complete Permit renewal application was not received by March 4, 2018. Failure to submit the Permit renewal application by March 4, 2018 is a violation of Part III, Section D, Condition 10 of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

17. On March 21, 2019, a renewal Permit was issued to Respondent. The Permit became effective on April 1, 2019, and expires on March 31, 2024.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with the renewal Permit.
2. In compromise and full settlement of the violation specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Five Hundred Dollars (\$500.00). Payment 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 Arkansas Department of Environmental Quality, and mailed to the attention of:

Arkansas Department 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, ADEQ shall be entitled to attorneys' fees and costs of collection.

3. 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. ADEQ retains the right to rescind this Order based upon the comments received within the thirty-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.

4. Nothing in this Order shall be construed as a waiver by ADEQ 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.

5. 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.

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

7. 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 set forth in this Order. See Exhibit A.

SO ORDERED THIS 26th DAY OF April, 2019.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

CITY OF STAMPS

BY: Brenda Davis
(Signature)

Brenda Davis
(Typed or printed name)

TITLE: Mayor

DATE: April 18, 2019

REGULAR MEETING – STAMPS CITY COUNCIL – APRIL 15, 2019

The regular meeting of the Stamps City Council was held Monday, April 15th at 5:30 p.m. at the Stamps City Hall.

Present: Larry Hovarter, James Clark, Chief Black, Gary Rader, Calvin Beasley and Linda Williams.

Also Present: Brenda Davis, Jacob Potter and Annette Fallin

Aldermen Present: Jo Gwen Phillip, Sheila Dickson, Michael Gillard, Anthony Sterling, Jerry Satterwhite and Barbara Hovarter.

The Mayor called the meeting to order.

Opening Prayer was led by Mr. Sterling.

Roll call was done, council members present listed above.

The mayor asked Ms. Fallin to read the minutes and after the reading she asked if there were any corrections or additions to the minutes from the March 19th regular or the April 1st special meetings. There were none and Ms. Phillips made a motion to accept the minutes, Mr. Satterwhite seconded, all aye and the motion passed.

The mayor asked if there were any questions on the financial statements. Ms. Phillips made a motion to accept the financial statements and Ms. Dickson seconded, all aye and the motion passed.

The mayor asked if there were any questions about the bills. There were none and Mr. Sterling made a motion to pay the bills, Mr. Satterwhite seconded, all aye and the motion passed.

COMMITTEE REPORTS:

Ordinance & Finance - Ms. Phillips had nothing at this time.

Public Safety – Mr. Sterling had nothing at this time. Chief Black reported that we had received our law enforcement grant (JAG) for \$2300.00. We got the money last week and I have already spent it. We are in the process now of getting all the records completed.

Fire Department – Ms. Hovarter reported there were 2 drills and 2 fires and 1 horse rescue.

Tourism & Development – Ms. Dickson stated there was some progress at the park. There are some limbs and 2 trees that have been cut. It looks good. We are getting ready for the FUN park grant to get started. The mayor stated unfortunately that is going to be in 4 weeks. He has to order the playground equipment and the top for the pavilion. Mr. Sterling stated over at the Lake June park they have topped a lot of trees and it really looks good. The mayor stated Chris Kilcrease cut them for us at both parks.

Water/Sewer – Mr. Satterwhite had a list of things completed that James had given him. He mentioned the roof on the library and the mayor stated we are holding off on the roof because we had heard it might close. He asked if it belonged to the city and the mayor said it did. He said we needed to go ahead and fix the roof because it was a good building. The mayor said that the city guys had patched it.

Streets and H&S – Mr. Gillard said I have spoken to you (the mayor) about Flower Street. There are a number of holes in some streets. These are not just regular holes, some really deep holes. I did some research and as long as it has been put in the minutes if something happens then the city is responsible. I just want to make sure it is in the minutes again that the holes are very deep. One person came to me and said they had knocked out a fog light and they fixed it themselves. The streets I am reporting are Flower and Sunset street.

Mr. Sterling said some of the holes have been patched on Pecan and N. Pecan but we have some smaller holes there as well. They are probably about 8 inches around. Most of them have been patched. The only thing about patching of the holes is some of the bigger holes have been fixed, but the smaller ones are not being fixed. That is where the decaying of the road is going to come from. Some of the home owners of the abandoned houses are gone and we need to do something about those because we are beginning to have fires, we had 2 the other night. Also, if we could remove those culverts at those properties so the water can start draining where they have been abandoned and those culverts have caved in and they need to be taken out. No one is using the drive ways and that is a city right of way. When we have time we need to look at that, I know we are getting in the busy mowing season, but if we can go along and mark it and when we get caught up we can work on it. The mayor stated our next slow day is next Wednesday (James confirmed it). She asked James to look at Flower Street and see what is going on over there and Sunset. She asked Mr. Sterling if he felt like the culverts are causing the ditches to clog and he said a lot of it is. Some people don't want us cleaning out their ditch because they say they mow it, but we have to use our better judgement. These culverts are stopping the drainage. They say culverts are the home owners responsibility, but we need to notify the homeowners and tell them their culvert is stopped up and we need to try and put a plan together to keep up with them. We are going to have to start spraying for mosquitoes and the stagnant water is going to cause mosquitoes. He stated in the minutes it was noted he had something in mind

and that is if we trade that tractor with the 15 ft. bush hog and get a tractor that is more feasible for our day to day activity. I haven't looked at the numbers on the tractor, but if we could consider looking at the numbers on it and see if we can trade it in and get a sidearm tractor which would be more feasible for the city and then we start spraying these areas where we can kind of kill it and it would help on the mowing. There are areas that we are going to have to mow. I don't know on the finance part where we stand, but if we can look at that. It would get some of the low hanging limbs that are hanging over the road. When we had the fire the other night it was hard to get down N. Ellis because of the low hanging limbs in the road and the grass is growing up on the road. Those are the things that I am talking about. That piece of equipment and a spray rig in the back on a truck spraying around the stumps, stop signs and the corner signs; those are things that I am talking about. The 15 ft. bush hog is really too big for us. At one time I thought that was the best piece of equipment for us, but knowing that we have it I am the first one to say that it is too big. When you trade one in that doesn't have many hours on it you can normally just about get your money back. That is something to look at.

OLD BUSINESS:

The mayor stated on the overlaying project for our streets I received a phone call from Mr. Clements and we need to take one more street off because the bid still did not fall under \$250,000.00. Main street is going to cost us a little over \$24,000, N. Central \$53,900.00, Opera \$99,613.00 and Pecan \$100,327.00. Mr. Clements and I talked and he feels like if we take N. Central off and James and I talked and we feel like that is the one that we need to take off because we don't have enough money. Main street definitely needs to stay so we can get the stop sign and the bar put there and we don't have two stop signs. Opera is bad and on Pecan they promised to straighten up that curve, so I would like to see that taken care of. I have already called him back and told him to take N. Central off. Mr. Satterwhite asked if she knew the contractor and she stated no, this is taken care of by highway department. That will still put us at about \$259,000.00. Ms. Phillips asked if we would have to pay the difference and the mayor stated he did not say that. He just recommended taking N. Central and that would take care of it. She also asked if the streets all have to lead to a highway and the mayor stated that is what we were told in the past, but he did not say that this time.

The mayor stated on Lake June the fish have been placed in the lake last Wednesday. The catchable channel catfish he placed 2,030, the blue gill 69,000, the red ear 19,080 and the feathered minnows 50,000. In June they are going to put in the bass. There is a limit of 5 cat per day. These fish were pretty big.

We have already discussed the FUN park so they should start about the middle of May.

Mr. Sterling asked if we have a spray rig to go in the back of the truck. Mr. Clark said no, we have one that we pull. Mr. Sterling asked if we could spend about \$115.00 and buy that spray rig. That is what we need to put in the back of a truck. The mayor stated I like the sprayer, but I don't want it to replace cutting of grass and looking nice and not seeing all dead stuff. He said he was talking about around stop signs and stuff, not for the ditches. Some of the places the grass is too tall and they will be right back out there in 2 weeks and cutting again. Just around the stop signs and water hydrants. That shouldn't have to come through the council to buy. Ms. Hovarter asked if we have a schedule on mosquito spraying. The mayor said we have not started; we will when we can. There has been a lot of rain and the temperature has to be right before we can spray.

The mayor stated you got in your packet that there is a special meeting for a public hearing pertaining to the Arkansas Economic Development Commission grant for the fire truck grant. That will be April the 22nd at 5:30.

Ms. Phillips stated she had been working on the annexation and a lot of time has gone by since she started on it. She stated she had almost all of the signatures to annex to Bodcaw Creek. I don't have all of them, but I have a majority. She stated we need the mayor's signature. It was noted it was talked about for some time, but it was not voted on. Mr. Sterling stated anyone that has Stamps water needs to be in the city limits. Ms. Phillips stated this will get C&C Packing and we will get tax revenue from this. B&D will also be included for anything that they sell out of their office. This will also include Red River. The mayor stated she would like to look this over since it was all new to her and on the meeting on the 22nd we will address this.

NEW BUSINESS:

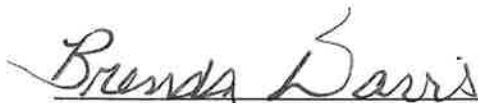
The mayor stated we have a couple of new businesses. The barber shop and the arcade. She also reported that Fred's will be closing. She stated she had a call in to one of the managers to see if they are willing to sell and what we could do there.

There was no other business and Ms. Hovarter made a motion to adjourn, Mr. Gillard seconded all ayed and the meeting adjourned.

Before the council could leave the room the mayor called them back for an item she had forgotten to mention. Ms. Hovarter made a motion to go back into session, Ms. Phillips seconded, all ayed and the meeting continued. The mayor stated I got a certified letter from ADEQ today and we have to have an application every 5 years for our water and sewer. We have forms signed by the previous mayor and due to the numerous updates needed to complete these forms it was filed and sent back to us several times. Due to this, we did not meet our deadline and they are fining us \$500.00. I would want to fight it because the

permit numbers do not match it, but I am willing to let it ride. On the letters they have different numbers. I don't know if something got lost or misplaced or somebody else's number on the letter, I don't know how it all got mixed up. I was not here at that time. It has to be in the minutes, so I need the council to vote and agree to the consent administrative order with ADEQ. Ms. Hovarter asked how long the number mix up had been going on. The mayor stated on some letters she had 52906 and 48305. Mr. Satterwhite asked if we had been filing under the wrong permit number. I am not sure. Mr. Potter stated Lewisville had a similar consent form and \$500.00 is the minimum fine. This is a relatively minor issue and in years past this would not have been an issue. But, they levy fines on this stuff now. This \$500.00 is a settlement and if you don't take it within 20 days they can go for a lot more. I advised Lewisville to take this agreement and I think the city might technically be in the wrong, so I would advise to accept the consent administrative order. It was noted we do have the right permit number now. The fine is because we did not meet the deadline, you have 180 days before your permit expires and because the mix up it was not filed in time. James and I have worked sometimes until 5:30 on this and we asked for a deadline. Mr. Potter advised on the motions needed. Mr. Satterwhite made a motion that the resolution has been reviewed and approved by the city council, Mr. Sterling seconded, all aye and the motion carried. Ms. Hovarter made a motion authorizing the mayor and the city clerk treasurer to sign the consent, Mr. Satterwhite seconded, all aye and the motion carried. Mr. Gillard made a motion authorizing the mayor and the city clerk treasurer to expend fund for compliance activities required by the order including, but not limited to the payment of the civil penalty as set forth in the order, Mr. Satterwhite seconded, all aye and the motion carried. The mayor stated we have to attach the minutes to this also.

The mayor stated we need a motion to adjourn for a second time and Ms. Phillips made the motion, Mr. Sterling seconded, all aye and the meeting adjourned.


Brenda Davis, Mayor


Annette Fallon, Recorder/Treasurer