

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Stuttgart
304 South Maple
Stuttgart, Arkansas 72160

LIS No. 16-006
Permit No. AR0034380
AFIN 01-00214

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "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 issued thereunder by Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC").

The issues herein having been settled by the agreement of the City of Stuttgart (hereinafter "Respondent") and the Arkansas Department of Environmental Quality (hereinafter "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 (hereinafter "facility") located at 1011 West 10th Street in Stuttgart, Arkansas County, Arkansas.
2. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (hereinafter "NPDES").

3. Respondent discharges treated wastewater to an unnamed ditch, thence to King Bayou, thence to Bayou Meto, thence to the Arkansas River in Segment 3B of the Arkansas River Basin.

4. ADEQ is authorized to administer the Clean Water Act under Ark. Code Ann. § 8-4-206.

5. 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).

6. 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.

7. NPDES Permit Number AR0034380 (hereinafter "Permit") was issued to the Respondent on January 29, 2015. The Permit became effective on February 1, 2015, and expires on January 31, 2020.

8. 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].

9. 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.

10. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

11. On August 20, 2015, the ADEQ Water Division Enforcement Branch conducted a review of the certified Discharge Monitoring Reports submitted by the Respondent from May 1, 2012 through June 30, 2015. The review revealed that Respondent has reported sixteen (16) violations of the permitted effluent limits of five (5) pollutants. Specifically, Respondent reported one (1) violation of the effluent discharge limit for Dissolved Oxygen; seven (7) violations of the effluent discharge limit for Total Suspended Solids; one (1) violation of the effluent discharge limit for Total Recoverable Copper; four (4) violations of the effluent discharge limit for Total Residual Chlorine; and three (3) violations of the effluent discharge limit for Carbonaceous Biochemical Oxygen Demand. Each of the sixteen (16) effluent discharge limit violations listed above constitutes a separate violation of Part I, Section A of the Permit and therefore sixteen (16) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. The Respondent shall operate the treatment system in such a manner as to comply with the effluent limits in the Permit to the maximum extent practicable, including through the use of Best Management Practices.

2. In order to correct the violations specified in Paragraph 11 of the Findings of Fact, the Respondent shall perform the following actions in compliance with the stated schedule:

a. Within three (3) months of the effective date of this Order, the Respondent shall have a complete treatment system evaluation performed by an Arkansas-licensed Professional Engineer (hereinafter "P.E.")

b. If it is determined that construction is required to achieve compliance with the effluent limits in the Permit, then the Respondent shall submit (1) an ADEQ State Construction Permit application (Form 1) in accordance with APC&EC Regulation 6.202 within six (6) months of the effective date of this Order. and (2) plans with specifications and design calculations. The specifications and design calculations shall be signed and stamped by an Arkansas-licensed P.E.

c. If it is determined that construction is required to achieve compliance with the effluent limits in the Permit, then the Respondent shall begin construction of the proposed treatment system within sixty (60) days of issuance of a final construction permit.

d. If it is determined that construction is required to achieve compliance with the effluent limits in the Permit, then the Respondent shall complete construction within twelve (12) months of the start of construction. Additionally, the Respondent shall obtain certification from an Arkansas-licensed P.E that the operational changes and upgrades to the treatment system have been completed and compliance with the effluent limits in the Permit has been achieved.

e. If it is determined that construction is not required the Respondent shall, upon the effective date of this Order, comply with the effluent limits in the Permit and continue to comply with the specified limits while the Permit remains in effect.

3. 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 (\$2,500.00). 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.

4. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If the Respondent should fail to meet any such requirements or deadlines, the Respondent consents and agrees to pay on demand to ADEQ 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 which may be available to ADEQ by reason of failure by the Respondent to comply with the requirements of this Order.

5. If any event, including but not limited to an act of nature, occurs which causes or may cause a delay in the achievement of compliance by the Respondent with the requirements or deadlines of this Order, the Respondent shall so notify ADEQ, 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.

6. ADEQ may grant an extension of any provision of this Order, provided that the 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 the 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 the Respondent and the length of the delay attributable to such circumstances shall rest with the Respondent. Failure to notify the ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

7. All requirements by the Order and Agreement are subject to approval by ADEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by ADEQ, submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies. Failure to adequately respond to such Notice of Deficiency within the

timeframe specified in writing by ADEQ constitutes a failure to meet the requirements established by this Order.

8. 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.

9. 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 the Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve the Respondent of its responsibilities for obtaining any necessary permits.

10. This Order has been reviewed and approved by the City Council of the Respondent in a duly convened meeting with a quorum present. See copy of [meeting minutes or resolution] attached as Exhibit 1.

11. The City Council of the Respondent has authorized the Mayor and City Clerk/Treasurer to sign this Order on behalf of the Respondent. See Exhibit 1.

12. The City Council of the 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 in the amount of Two Thousand Five Hundred Dollars (\$2,500.00). See Exhibit 1.

SO ORDERED THIS 19th DAY OF January, 2016.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

CITY OF STUTTGART

BY: [Signature]
(Signature)

J W Green
(Typed or printed name)

TITLE: Mayer

DATE: 1/6/16

STUTTGART CITY COUNCIL MEETING

January 5, 2016

The Stuttgart City Council met in regular session on January 5, 2016 in City Hall at 5:30 P.M. Mayor J. W. Green Jr. called the meeting to order and Alderman Donald Stephens led the prayer. City Clerk Mitri Greenhill then led the Pledge of Allegiance. Those answering roll call were as follows:

Mayor J W Green Jr.
City Clerk/Treasurer Mitri Greenhill
City Attorney Elizabeth Skinner

Council members: Joe Alexander, Jr.
Jim Craig
Teddy Holt
Joe Rhine
Bill Shrum
Donald Stephens

Others present: Police Chief Keith Connell
Fire Chief Billy Burns
SWMS Director Michael Taylor
Water/Sewer Manager Tommy Lawson
Code Enforcement Officer Gary Norris
Street Director Chris Maxwell
Airport Manager Carl Humphrey

Motion to approve the minutes as received in the email was made by Craig and the second was by Rhine. Motion carried.

AYES: Alexander, Craig, Holt, Rhine, Shrum and Stephens

NAYS: None

Motion to pay the bills after proper signature was made by Rhine and the second was by Shrum. Motion carried.

AYES: Alexander, Craig, Holt, Rhine, Shrum and Stephens

NAYS: None

Motion was made by Holt and the second was by Craig to approve the payment of \$2,500 to ADEQ for the Consent Administrative Order. The letter is attached to these minutes. Motion carried.

AYES: Alexander, Craig, Holt, Rhine, Shrum and Stephens

NAYS: None

Mayor Green stated that at the first council meeting of each year, the council is required by state statute, A.C.A. 14-43-501, to adopt the rules of organization of the governing body. Motion was made by Craig and the second was by Holt to adopt the rules for procedure and operate as the council did in the past year. Motion carried.

AYES: Alexander, Craig, Holt, Rhine, Shrum and Stephens

NAYS: None

