

Solid waste MB
Sub Not 4/10/04
Penalty \$ 2,500
Due NLT 5/10/04

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:
CITY OF CONWAY LANDFILL
PERMIT NUMBER 0140-SR-1
AFIN 23-00010
CONWAY, ARKANSAS 72032

LIS 04- 044

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order ("Order") is issued pursuant to the authority of the Arkansas Solid Waste Management Act (Act 237 of 1971, as amended; A.C.A. §8-6-201 et seq.) and the Arkansas Pollution Control and Ecology Commission Regulation 22 (hereinafter "Reg. 22"). The issues herein as they pertain to the City of Conway Landfill (hereinafter "City"), having been settled by the agreement of the City and the Director of the Arkansas Department of Environmental Quality (hereinafter "ADEQ"), it is hereby agreed and stipulated by all parties that the following Findings of Fact and Order and Agreement be entered herein.

FINDINGS OF FACT

1. ADEQ, as administered by its Director, is the state agency charged with ensuring compliance with the Arkansas Solid Waste Management Act, A.C.A. § 8-6-201 et seq., and the regulations promulgated there under including the Arkansas Pollution Control and Ecology Commission Regulation 22 (Reg. 22).
2. The City owns and previously operated a Class 1 landfill, permit number 0140-SR-1, in or near Conway, Faulkner County, Arkansas, located on Blaney Hill Road. This landfill is currently in the post closure care period.

3. On January 20, 2004, the ADEQ received an anonymous complaint against the City, in which the complainant alleged that the leachate collection tank was overflowing and leachate was leaving the site.
4. On January 20, 2004, an ADEQ Solid Waste Division Inspector conducted an investigation at the City's landfill regarding the complaint. The Inspector noted that the leachate collection tank on the south side of the landfill area was discharging through the overflow pipe near the top of the tank. Leachate was pooling inside the earthen berm and appeared to be penetrating the berm on the south side and running down the landfill access road and into the ditches on both sides. This is a violation of A.C.A. § 8-6-205 (a)(5) and Reg. 22.1302(b)(2).

ORDER AND AGREEMENT

1. The City shall comply with the Arkansas Solid Waste Management Act, A.C.A. § 8-6-201 et seq., the permit (number 0140-SR-1), and the Arkansas Pollution Control and Ecology Commission Regulation 22.
2. The City shall submit a Corrective Action Plan (CAP) to the Solid Waste Management Division, attention Steve Martin, Chief of Solid Waste, within (30) days of the date of publication of this Order. The CAP should specify all corrective measures to any noted

violation in paragraph 1 through 4 of the Findings of Fact section in accordance with the Arkansas Pollution Control and Ecology Commission Regulation Number 22 and provide a schedule for completion of the activities. The CAP will be reviewed by ADEQ staff for approval and in the event of any deficiency, ADEQ staff will notify the City of any deficiency and the City shall respond with the required information in writing within fifteen (15) calendar days of receipt of the notification of deficiency. Failure to adequately respond to the notice of deficiency within fifteen (15) days constitutes a failure to meet a deadline and is subject to the civil penalties established in Paragraph 4 below. The City shall implement the CAP within five calendar days of receiving written approval from ADEQ.

3. In compromise and full settlement of civil penalties for instances of noncompliance specified in the FINDINGS OF FACT (paragraph 1-4), the City agrees to pay the sum of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) as a voluntary civil penalty. The total of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) shall be due within (30) days of the effective date of this Order. Penalty payment shall be made payable to the Arkansas Department of Environmental Quality. Payment shall be mailed to the Fiscal Division, Attention Pam McAllister, Arkansas Department of Environmental Quality, 8001 National Drive, P.O. Box 8913, Little Rock, AR 72219-8913. The publication of this Order shall occur on or about the 10th day of the month following the date this Order is executed.
4. Failure to meet the limits, requirements, or deadlines of this CAO or the approved schedules provided for herein constitutes a violation of said CAO. If the City should fail to meet any

such limits, requirements, or deadlines, the City consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

- | | | |
|-----|---|--------------------|
| (a) | First day through the tenth day: | \$250.00 per day |
| (b) | Eleventh day through the twentieth day: | \$500.00 per day |
| (c) | Twenty-first day through the thirtieth day: | \$750.00 per day |
| (d) | Each day beyond the thirtieth day: | \$1,000.00 per day |

Stipulated penalties shall be paid within thirty (30) days of receipt of ADEQ's demand to the City 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 which may be available to ADEQ by reason of the City's failure to comply with the requirements of this CAO. ADEQ reserves its rights to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above; provided, however, that under no circumstances shall ADEQ be entitled to double recovery of penalties or fines under this CAO and pursuant to its enforcement authority.

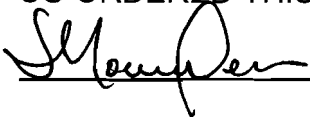
5. If any event, including but not limited to an occurrence of nature, causes or may cause a delay in the achievement of compliance by the City with the requirements or deadlines of this CAO, the City shall so notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates 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 timetable by which those measures will be implemented.

6. ADEQ may grant an extension of any provision of this CAO, provided that the City 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 City. 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 City and the length of the delay attributable to such circumstances shall rest with the City. Failure to notify ADEQ promptly, as provided in Paragraph 5 of the ORDER AND AGREEMENT, shall be grounds for a denial of an extension.
7. This CAO is subject to public review and comment in accordance with A.C.A. § 8-4-103(d) and is, therefore, not final until thirty (30) days after public notice of the CAO is given. ADEQ retains the right and discretion to rescind this CAO based on comments received within the thirty day public comment period.
8. Nothing contained in this CAO shall relieve the City of any obligations imposed by any other applicable local, state, or federal laws, nor, except as specifically provided herein, shall this CAO be deemed in any way to relieve the City of responsibilities contained in the permit.
9. Nothing in this CAO shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. In addition, this CAO does not

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

10. This CAO shall apply to and be binding upon ADEQ and upon the City, their successors and assigns. Any changes in ownership or corporate status of the City, including but not limited to any transfer of shares, assets or other real or personal property, shall in no way alter the City's obligations under this CAO.
11. Each of the undersigned representatives of the parties certifies that he or she is authorized to execute this CAO and to legally bind that party to its terms and conditions.

SO ORDERED THIS 23rd day of March, 2004.



Marcus C. Devine, Director, ADEQ

APPROVED AS TO FORM AND CONTENT:

BY Tab Townsell (Signature)

Tab Townsell (Typed or printed name)

TITLE Mayor, City of Conway

DATE March 19, 2004