

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Walnut Ridge  
216 SW 4th Street  
Walnut Ridge, AR 72476

LIS No. ~~19~~ 20-010  
Permit Tracking No. ARR000538 (EXPIRED)  
AFIN 38-00040

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 the City of Walnut Ridge (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 wastewater treatment plant (Facility) located at 1002 S.W. Oak Street, Walnut Ridge, Lawrence County, Arkansas.
2. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

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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. 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).
4. 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.
5. 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].
6. 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.
7. 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.”
8. In accordance with 40 C.F.R. § 122.26(c), as adopted by APC&EC Regulation No. 6, dischargers of stormwater associated with industrial activity, as defined by 40 C.F.R. § 122.26(b)(14)(i-ix, xi), are required to obtain coverage under the NPDES Industrial Stormwater General Permit ARR000000 or an individual permit.
9. DEQ issued the NPDES Industrial Stormwater General Permit with an effective date of July 1, 2014, and an expiration date of June 30, 2019. DEQ issued a renewal of the current

NPDES Industrial Stormwater General Permit with an effective date of July 1, 2019, and an expiration date of June 30, 2024.

10. DEQ issued Industrial Stormwater General Permit coverage to Respondent for discharge of stormwater into waters of the state pursuant to the NPDES Industrial Stormwater General Permit, Permit Tracking Number ARR000538 (“Permit”) with a coverage date of August 14, 2014, and an expiration date of June 30, 2019.

11. Part 2 Condition 2.2 of the Permit requires Respondent to submit a complete Recertification Notice of Intent (RNOI) no later than June 30, 2019 in order to maintain permit coverage for the regulated activity.

12. On December 31, 2018, Respondent was notified via letter that the Permit would expire on June 30, 2019, and that in order to continue the regulated activity, a complete RNOI must be submitted no later than June 30, 2019.

13. The complete RNOI was not received by July 1, 2019. Failure to submit the RNOI by July 1, 2019, is a violation Part 2 Condition 2.2 of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

14. On September 20, 2019, DEQ notified Respondent via letter that coverage under the Permit had expired.

15. On September 24, 2019, DEQ contacted Respondent via email and again notified Respondent that the Permit coverage had expired.

16. On September 26, 2019, Respondent notified DEQ that the facility is still operating. Respondent has operated the Facility beyond the June 30, 2019 expiration date of the NPDES Industrial Stormwater General Permit. This action is a violation of 40 C.F.R. § 122.26 as adopted by APC&EC Regulation No. 6 and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

17. On October 17, 2019, Respondent submitted a Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) to DEQ.
18. On October 21, 2019, DEQ notified Respondent that the NOI was incomplete.
19. On October 28, 2019, Respondent submitted a No Exposure Certification for review.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with the NPDES Industrial Stormwater General Permit, ARR000000 with the effective date of July 1, 2019, until DEQ issues a Notice of Coverage to Respondent.
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. 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

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 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.

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. 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.

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

11. The City Council of Respondent has authorized the Chairman 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 22 DAY OF January, 2019.2020  
Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Walnut Ridge

BY: Charles E. Snapp

(Signature)

Charles E. Snapp  
(Typed or printed name)

TITLE: Mayor

DATE: 12-20-19

**RESOLUTION NO. 2019-34**

**A RESOLUTION ACKNOWLEDGING AND ACCEPTING THE ATTACHED ARKANSAS  
DEPARTMENT OF ENERGY AND ENVIRONMENT DIVISION OF ENVIRONMENTAL  
QUALITY CONSENT ADMINISTRATIVE ORDER**

WHEREAS, The City of Walnut Ridge received a civil penalty in the amount of \$1000.00 from the Arkansas Department of Environmental Quality ("ADEQ") for items that were incomplete for the City's renewal application for its SWPPP #ARR000538

WHEREAS, the ADEQ has offered to enter into the attached Consent Administrative Order to resolve this issue and to grant the SWPPP Permit to the City of Walnut Ridge;

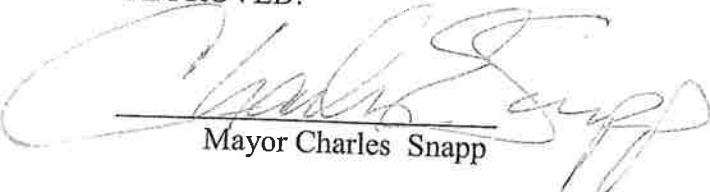
NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF WALNUT RIDGE, AS FOLLOWS:

Section 1. The City Council of the City of Walnut Ridge acknowledges and accepts the attached Consent Administrative Order.

Section 2. EFFECTIVE DATE: This Resolution shall take effect immediately.

PASSED AND APPROVED this 16<sup>th</sup> day of December, 2019.

APPROVED:

  
Mayor Charles Snapp

ATTEST:



Sharon Henson, City Clerk





## **Minutes of the Council of Walnut Ridge, Arkansas**

The City Council of the City of Walnut Ridge, Arkansas met in regular session at 6:00 p.m. December 16, 2019 at the Police Complex in Walnut Ridge, Arkansas. Present were: Mayor Charles Snapp, City Attorney Ethan Weeks and City Clerk Sharon Henson. By Roll Call the following Council Members were present: Wendell Jones, Steve Benesch, Ty Callahan, Angie Abbott, Jon Walter, Anthony Pinkston, and Larry Abbott. Vacant seat on council. At 6:00 p.m. Mayor Charles Snapp declared a quorum and opened the meeting for business.

The Minutes of the November, 2019 regular meeting were reviewed. Council Member A. Abbott made a motion to approve the minutes and Council Member Walter seconded the motion. The motion carried.

Financial Statements were reviewed. Council Member L. Abbott made a motion to approve the financial statements seconded by Council Member Pinkston. The motion passed unanimously.

Payments Journal was reviewed. Council Member A. Abbott made a motion to approve the payments journal seconded by Council Member Jones. The motion passed unanimously.

### **Old Business**

Resolution No. 2019-32, "A RESOLUTION DETERMINING THE TOTAL AMOUNT OF THE CLEAN UP COSTS ASSOCIATED WITH THE REMOVAL OF DEBRIS FROM PROPERTY LOCATED AT 115-121 ABBEY ROAD, WALNUT RIDGE, ARKANSAS; AND FOR OTHER PURPOSES" was read by City Attorney Ethan Weeks. Council Member Benesch made a motion to pass Resolution 2019-32 seconded by Council Member Callahan. The motion carried. Invoices will be submitted to the landowners per the resolution by City Clerk.

Resolution No. 2019-33 "A RESOLUTION PROVIDING FOR AND ADOPTING A BUDGET FOR THE CITY OF WALNUT RIDGE, ARKANSAS, FOR THE TWELVE (12) MONTHS BEGINNING JANUARY 1, 2020 AND ENDING DECEMBER 31, 2020 APPROPRIATING MONEY FOR EACH AND EVERY ITEM OF EXPENDITURE HEREIN PROVIDED FOR; AND FOR OTHER PURPOSES" was read by City Attorney Ethan Weeks. This budget includes raises of \$1,040.00 per year for full time employees, mayor and treasurer. Council Member L. Abbott made a motion to pass Resolution 2019-33 seconded by Council Member Walter. The motion passed unanimously.

Sharon Henson, City Clerk submitted changes to the Employee Handbook to Council. The new handbook would be effective January 1, 2020. Upon review Council Member Walter made a motion to approve the Employee Handbook with changes seconded by Council Member L. Abbott. The motion passed unanimously.

City Attorney Ethan Weeks and Code Enforcement Officer Bryan Archer gave an update on continued clean-up & condemnation for 2020. As it stands there are three (3) properties for 2019

and (3) properties for 2020 for condemnation. It was stated that 7 days after the initial visit from code enforcement that on day 7 the property would be revisited and if not cleaned up a citation would be given at that time. All visits and location of properties will be entered into a code enforcement log book. It was also stated that any commercial condemnations must have an asbestos inspection completed.

### **New Business**

Resolution No. 2019-34, "A RESOLUTION ACKNOWLEDGING AND ACCEPTING THE ATTACHED ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT DIVISION OF ENVIRONMENTAL QUALITY CONSENT ADMINISTRATIVE ORDER" was read by the City Attorney Ethan Weeks. Council Member Callahan made a motion to pass Resolution 2019-34 seconded by Council Member Jones. The motion carried.

Resolution No. 2019-35, "A RESOLUTION PROVIDING FOR RENEWAL OF AN EXISTING CONTRACT WITH LIGHT MOWING SERVICES FOR THREE YEARS, FOR THE PURPOSE OF OBTAINING PROFESSIONAL SERVICES FOR LANDSCAPING AND GRASS CUTTING AND OTHER CONTRACTED SERVICES WITHIN THE CITY OF WALNUT RIDGE, ARKANSAS" was read by City Attorney Ethan Weeks. Council Member L. Abbott made a motion to pass Resolution 2019-35 seconded by Council Member A. Abbott. The motion carried.

Resolution 2019-36, "A RESOLUTION PROVIDING FOR RENEWAL OF AN EXISTING CONTRACT WITH VECTOR DISEASE CONTROL, INC. (D/B/A ADAPCO VECTOR CONTROL SERVICES) FOR THREE YEARS, FOR THE PURPOSE OF OBTAINING PROFESSIONAL SERVICES FOR MOSQUITO CONTROL AND ABATEMENT WITHIN THE CITY OF WALNUT RIDGE, ARKANSAS" was read by City Attorney Ethan Weeks. Council Member Callahan made a motion to pass Resolution 2019-36 seconded by Council Member Jones. The motion passed unanimously.

Mayor Snapp asked Council to re-appoint Donald Cavanaugh, as Airport Commissioner for the next 5 years beginning January 1, 2020. Upon motion by Council Member Jones and seconded by Council Member A. Abbott the motion carried.

Mayor Snapp also asked Council to approve the re-appointment of Ron Ingram to the Airport Commission for the 5 year period beginning January 1, 2020. Council Member L. Abbott made a motion for re-appointment seconded by Council Member Pinkston. The motion carried.

Mayor Snapp stated to council that the Planning Commission has 2 seats on the commission that need appointment and re-appointment. The mayor recommended the re-appointment of Larry Abbott to the commission. The second seat for 2020 would be vacant at the time, Roger Duckworth would be stepping down from this position. Upon a motion by Council Member

Walter and seconded by Council Member Callahan to re-appoint Larry Abbott council voted 6 yeas 0 nays and 1 abstain.


Due to the vacant seat on the City Council which was held by Council Member Hart as Mayor Pro Tem a new Mayor Pro Tem was appointed by Council. Council approved the appointment of Larry Abbott. The mayor reviewed with Council the need to have 4 people on all banking accounts for backup. Along with Mayor Charles Snapp and City Clerk/Treasurer Sharon Henson; Council Member Larry Abbott (Mayor Pro Tem) and Council Member Anthony Pinkston (Budget Chair) will be added to all accounts.

City Health Insurance was discussed with Council. City Clerk/Treasurer Sharon Henson reviewed payments for individuals that had coverage not paid by the City. These individuals may pay monthly or quarterly however, in either scenario an invoice past 30 days cannot be tolerated. It was stated by Council that after 30 days late on insurance payment; health insurance would be cancelled. All 7 council members present agreed to this recommendation.

The Council considered two candidates for the vacant council seat left by Council Member Everett Hart. Candidates Bobby Hatfield and Bryan Butts presented themselves with resumes submitted prior to council for consideration. The candidates were each given two (2) minutes to speak on their behalf to council. At 7:25 p.m. Council went into Executive Session to discuss the two (2) applicants. Council returned from Executive Session at 7:33 p.m. with a decision. Mayor Snapp called for the decision from Council. Council Member Jones thanked both candidates and with a 7 member unanimous council vote; Bryan Butts was appointed to fill the council seat of Ward 2, Position 1. Bryan Butts was sworn into office by City Clerk Sharon Henson.

There being no further business Council Member Jones made a motion to adjourn seconded by Council Member A. Abbott. Motion carried and the meeting adjourned at 7:40 p.m.

Dated this 20th day of

January 2020  
  
Charles Snapp, Mayor

Attest: Sharon Henson

Sharon Henson, City Clerk

