

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:
CRAIGHEAD COUNTY SOLID WASTE DISPOSAL AUTHORITY
P.O. BOX 16777
JONESBORO, ARKANSAS 72403
AFIN 16-00199
AND
THE CITY OF JONESBORO, ARKANSAS
515 W. WASHINGTON
P.O. BOX 1845
JONESBORO, ARKANSAS 72403

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CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "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.), the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended; A.C.A. § 8-4-101 et seq.), and the Arkansas Pollution Control and Ecology Commission Regulation 22 (hereinafter "Reg. 22"). The issues herein as they pertain to Craighead County Solid Waste Disposal Authority (hereinafter "CCSWDA") and the City of Jonesboro, Arkansas (hereinafter "City", having been settled by the agreement of CCSWDA, 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 thereunder including the Arkansas Pollution Control and Ecology Commission Regulation 22.

2. The CCSWDA currently owns and operates a Class 1 Landfill, pursuant to ADEQ Solid Waste Permit 0254-S1-R3.
3. A.C.A. § 8-6-205 (a) (2) states in pertinent part:
 - (a) It shall be illegal for any person:
 - (2) To construct, install, alter, modify, use, or operate any solid waste processing or disposal facility or disposal site without a permit from the Arkansas Department of Environmental Quality;
4. Currently there is an unpermitted yard waste collection site within the CCSWDA boundaries that is operated by the City at or near 1624 Strawfloor Road, Jonesboro, Arkansas. This site is being used for the processing of yard waste and the dumping of yard waste. These activities require an ADEQ permit in accordance with A.C.A. § 8-6-205(a)(2).
5. The City has obtained an air permit for a yard waste incinerator to burn the yard waste collected from City residents and businesses. The yard waste incinerator has a permitted input capacity of greater than twelve (12) tons per day. The City will utilize the permitted incinerator to cleanup the Strawfloor Road site and as a primary disposal method for the future yard waste collected.
6. The Arkansas Pollution Control and Ecology Commission Regulation 22.703 states in pertinent part:
 - (a) Co-Disposal of Ash – The owner or operator of a Class 1 landfill may co-dispose of nonhazardous solid waste incinerator ash that is generated from an incinerator with a permitted input capacity of twelve (12) tons of material or less per day in the Class 1 landfill.
 - (b) Ash Monofill Requirement – The owner or operator of a Class 1 landfill may accept and dispose of incinerator ash from an incinerator with a permitted input capacity of greater than twelve (12) tons of material per day provided the owner or operator has demonstrated to the Department:
 - (1) That the incinerator ash will only be disposed of in a monofill or a separate waste cell specifically designed for the disposal of incinerator ash;
 - (2) That the incinerator ash monofill meets all the operational and design

requirements for the permitting of Class 1 landfills as described herein;
(3) That the incinerator ash is not hazardous waste.

7. ADEQ recognizes that there is an immediate need within the City of Jonesboro for a method to handle yard waste. ADEQ also recognizes that CCSWDA may safely and effectively co-dispose of the yard waste incinerator ash resulting from the City of Jonesboro.

ORDER AND AGREEMENT

1. The City shall remove the accumulated yard waste at the 1624 Strawfloor Road site. Removal of the yard waste shall be complete within three hundred (300) days from the effective date of this Order. Failure to remove all the yard waste within three hundred (300) days constitutes a failure to meet a deadline and is subject to the civil penalties established in paragraph 5 below.
2. The CCSWDA shall be allowed to co-dispose the yard waste incinerator ash, generated by the City, with the normal waste stream of the Class 1 landfill provided:
 - (a) The ash is from the incineration of yard waste only;
 - (b) The ash has no ability to cause a fire;
 - (c) The ash does not create a dust nuisance or violation of air rules and regulations;
3. This Consent Administrative Order is not intended to be a perpetual permitting action. The ADEQ reserves the right to rescind this Consent Administrative Order, for cause, at any time.
4. Any submittals required by this Order shall be submitted to: ADEQ, attention Scott McWilliams, Enforcement Coordinator, Solid Waste Management Division, 5301 Northshore Drive, North Little Rock, Arkansas 72118. Any submittals required by this Order are subject to approval by ADEQ. In the event of any deficiency, the CCSWDA and/or City shall within

fifteen (15) days of notification by ADEQ submit any additional information requested. 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 5 below.

5. Failure to meet the requirements of this Order including failure to respond by the time limits contained herein constitutes a violation of said Order. If the CCSWDA and/or the City should fail to meet any such requirements or deadlines, the CCSWDA and/or 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:	\$100.00 per day
b.	Eleventh day through the twentieth day:	\$200.00 per day
c.	Twenty-first day through thirtieth day:	\$300.00 per day
d.	Each day beyond the thirtieth day:	\$500.00 per day

These stipulated penalties for delays in performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of the CCSWDA's and/or the City's failure to comply with the requirements of this Order.

6. 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 CCSWDA and/or the City with the requirements or deadlines of this Order, the CCSWDA and/or 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 specified herein. 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. ADEQ may grant an extension of any provision of this Order, provided that the CCSWDA and/or 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 CCSWDA and/or 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 CCSWDA and/or the City and the length of the delay attributable to such circumstances shall rest with the CCSWDA and/or the City. Failure to notify the ADEQ promptly, as provided in paragraph 6 of this section, shall be grounds for a denial of an extension.
8. This Order is subject to public review and comment in accordance with A.C.A. §8-4-103 (d) and Arkansas Pollution Control and Ecology Commission Regulation No. 8 and shall not be final until thirty (30) 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 with the terms of the permit shall be taken immediately.
9. As provided by Arkansas Pollution Control and Ecology Commission 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 ADEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate the CCSWDA and/or the City from any past, present, or future conduct which is

not expressly addressed herein, nor does it relieve the CCSWDA and/or the City of its responsibilities for obtaining any necessary permits.

SO ORDERED THE _____ DAY OF _____, 2010

Teresa Marks, Director

APPROVED AS TO FORM AND CONTENT:
Craighead County Solid Waste Disposal Authority

BY: *Angela L. Sparks*
(Signature)

Angela L. Sparks
(Typed or printed name)

TITLE: *Executive Director*
(Typed or printed title)

DATE: *03/05/2010*