

**IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS  
CIVIL DIVISION**

**CAROL BITTING, LIN WELLFORD  
And NANCY HALLER, M.D.**

**APPELLANTS**

**VS.**

**Case No. 2017-\_\_\_\_\_**

**ARKANSAS POLLUTION CONTROL AND  
ECOLOGY COMMISSION and  
ELLIS CAMPBELL d/b/a EC FARMS**

**APPELLEES**

**NOTICE OF APPEAL**

Come the Appellants, Carol Bitting, Lin Wellford and Nancy Haller, M.D., and, pursuant to Arkansas Code Annotated §8-4-223, herewith file their Notice of Appeal from a Minute Order No. 17-07 of the Arkansas Pollution Control and Ecology Commission passed January 27, 2017 (a copy of which is attached to this Notice of Appeal as Exhibit No. 1), which Minute Order was based on Order No. 9 (Recommended Decision) of Administrative Law Judge Charles Moulton issued January 5, 2017.

The grounds for this appeal are:

- (1) The Commission erred in affirming Order No. 9 of the Administrative Law Judge, which found as a matter of law that Regulation 5.601 of the Regulations of the Commission prohibited Permit No. 3540-6, a confined animal feeding permit issued by the Arkansas Department of Environmental Quality (ADEQ) to Ellis Campbell effective March 1, 2015, from being modified by ADEQ to a land-application-only Permit No. 3540-7; that a new and separate land-application-only permit was required to be processed and issued by ADEQ to Ellis Campbell; but affirming Permit No. 3540-7, provided that ADEQ issue a separate tracking number for that permit and that

ADEQ receive the appropriate permit fee for a separate permit. As a matter of law, those findings are inconsistent and contrary to Commission Regulation 5.

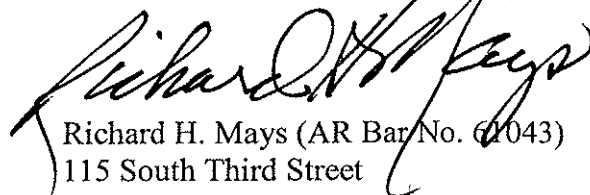
- (2) The Commission erred in affirming Order No. 9 of the Administrative Law Judge in failing to void Permit No. 3540-7 and remand it to the Arkansas Department of Environmental Quality for commencement of proceedings for a new land-application-only permit pursuant to the procedures set forth in Regulation 8 of the Regulations of the Commission, including Regulations 8.201 through 8.211.

The person upon whom service of a response to this Notice of Appeal and other papers in this matter may be made upon the Appellants, and his address is:

Richard H. Mays  
Richard Mays Law Firm, PLLC  
115 South Third Street  
Heber Springs, AR 72543  
*Attorney for Appellants.*

Respectfully submitted,

**RICHARD MAYS LAW FIRM, PLLC**



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(501) 362-0059 (fax)  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, on the date set forth below, he served a copy of the above and foregoing Notice of Appeal filed in the captioned case upon counsel of record for the parties by depositing a copy of the same in the U.S. Postal Service, and by electronic mail, addressed to:

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*Attorneys for Arkansas Department of Environmental Quality*

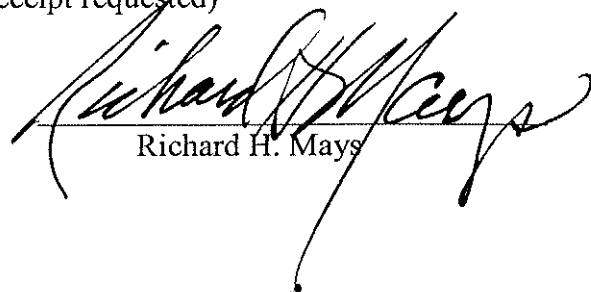
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*Attorney for Campbell/EC Farms*

Ms. Patricia Goff, Secretary  
Arkansas Pollution Control and  
Ecology Commission  
101 E. Capitol Ave., Suite 205  
Little Rock, AR 72201

*Secretary of the Arkansas Pollution Control & Ecology Commission*  
(via certified mail, return receipt requested)

Dated: February 21, 2017.

  
Richard H. Mays

ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

EC Farms

Consolidated Docket No.  
16-002-P

MINUTE ORDER NO. 17 - 07

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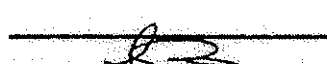

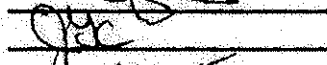









On January 5, 2017, Charles Moulton, Administrative Law Judge ("ALJ"), issued Order No. 9 (Recommended Decision) in Consolidated Docket No. 16-002-P, which is a case styled: In the Matter of EC Farms.

Order No. 9 Affirms Permit No. 3540-WR-7, except for the following matters that are remanded to the Arkansas Department of Environmental Quality ("ADEQ") with the following directions:

1. ADEQ must issue a separate tracking number for Permit No. 3540-WR-7 as required by Reg. 5.601; and
2. ADEQ shall receive the appropriate permit fee for a separate permit as required by Reg. 5.601 and Regulation No. 9.

The record compiled in this docket by the Administrative Law Judge and Order No. 9 came before the Commission at its January 27, 2017 meeting. After considering the matter, the Commission adopts and affirms, without modification Order No. 9 (Recommended Decision) entered on January 5, 2017, and closes this docket.

COMMISSIONERS

	J. Bates		M. Goggans
	L. Bengal		A. Henry
	J. Chamberlin		B. Holland
	J. Crow		R. Reynolds
	J. Fox		W. Stites
	C. Gardner		B. White

  
R. Moss - Chair

SUBMITTED BY: Charles Moulton

PASSED: 01/27/17

EXHIBIT 1