

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Bauxite
6055 Stanley Circle
Bauxite, AR 72011

LIS No. 25- 020
Permit No. AR0049786
AFIN 63-00418

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 rules issued thereunder by the Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the City of Bauxite - Bauxite Wastewater Treatment Facility (Respondent) and the Division of Environmental Quality (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 minor municipal wastewater treatment facility ("facility") located at 201 Pine Haven Road, Bauxite, Saline County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary, thence to Alcoa unnamed tributary to Hurricane Creek, thence to Hurricane Creek, thence to the Saline River, thence into the Ouachita River in Segment 2C of the Ouachita River Basin.
3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

City of Bauxite, CAO

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4. Pursuant to the Federal Clean Water Act, 33 U.S.C. § 1311 *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).

5. 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 a NPDES permit.

6. 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].

7. 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 rule or permit issued pursuant to the Act.

8. 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."

9. DEQ issued NPDES Permit Number AR0049786 ("Permit") to Respondent on July 25, 2019. The Permit became effective on August 1, 2019, and expired on July 31, 2024.

CAO LIS 20-004

10. On December 31, 2019, DEQ and Respondent entered into Consent Administrative Order LIS 20-004, which became effective on February 10, 2020, to address violations of the permitted effluent discharge limitations. CAO LIS 20-004 was amended on January 11, 2021.

11. On July 2, 2021, Respondent certified final compliance with CAO LIS 20-004, as amended.

12. Respondent then reported violations of the permitted effluent limits for ammonia for the months of July, October, and December of 2021, and January and February of 2022.

Inspection Report

13. On January 13, 2022, DEQ conducted a routine compliance evaluation inspection of the facility. The inspection revealed the following violations:

- Areas of the plant are showing signs of corrosion. This is a violation of Part III.B.1 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
 - b. Respondent has not conducted calibration checks on the flowmeter to ensure continued compliance. This is a violation of Part III.C.2 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
 - c. Respondent failed to calibrate the pH meter before sample analysis. This is a violation of Part III.C.3 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
 - d. Respondent failed to properly dispose of solid waste recovered from the high school pump station. This is a violation of Part III.B.6 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
 - e. Respondent failed to post emergency contact information at each pump station.
14. On November 3, 2022, DEQ notified Respondent of the inspection results.

Continued Effluent Violations

15. On June 25, 2024, Respondent and DEQ met to discuss the ongoing issues at the facility.
16. On June 26, 2024, DEQ received photographs from Respondent documenting the sewer plant repairs that Respondent had made.

17. On June 28, 2024, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

18. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I.A, of the Permit from June 1, 2021, through May 31,

2024:

- Seventy-one (71) violations of Ammonia Nitrogen;
- Twenty-six (26) violations of Total Suspended Solids;
- Eighteen (18) violations of Fecal Coliform Bacteria; and
- Ten (10) violations of Carbonaceous Biochemical Oxygen Demand (CBOD).

19. Each of the 125 discharge limitation violations listed in Paragraph 18 above constitutes a separate permit violation for a total of 125 separate violations of Ark. Code Ann. § 8-4-217(a)(3).

20. The review of the DMRs further revealed that Respondent failed to submit DMRs by the due date for the following twenty (20) monitoring periods:

- 2021: November, December;
- 2022: February, April, May, July, August, December;
- 2023: January, February, June, July, August, September, October; and
- 2024: January, February, March, April, and May.

Failure to submit DMRs with the monitoring results obtained during the monitoring period no later than the 25th of the month following the completed monitoring period is a violation of Part III.C.5 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

21. On October 2, 2024, DEQ conducted a review of certified DMRs submitted by Respondent in accordance with the Permit.

22. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I.A, of the Permit from June 1, 2024, through August 31, 2024:

- Nine (9) violations of Ammonia Nitrogen;
- Six (6) violations of Total Suspended Solids;
- Five (5) violations of Fecal Coliform Bacteria; and
- Three (3) violations of CBOD.

23. Each of the twenty-three (23) discharge limitation violations listed in Paragraph 22 above constitutes a separate permit violation for a total of twenty-three (23) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

24. On January 27, 2025, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

25. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I.A, of the Permit from September 1, 2024, through December 31, 2024:

- Eleven (11) violations of Ammonia Nitrogen;
- Six (6) violations of Total Suspended Solids;
- Six (6) violations of CBOD; and
- Two (2) violations of Fecal Coliform Bacteria.

26. Each of the 25 discharge limitation violations listed in Paragraph 25 above constitutes a separate permit violation for a total of 25 separate violations of Ark. Code Ann. § 8-4-217(a)(3).

27. The review of the DMRs further revealed that Respondent failed to submit the DMR by the due date for the following monitoring period:

- 2024: November.

Failure to submit DMRs with the monitoring results obtained during the monitoring period no later than the 25th of the month following the completed monitoring period is a violation of Part III.C.5 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Upon the effective date of this Order, CAO LIS 20-004, as amended by CAO LIS 20-004-001, shall be closed.
2. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to DEQ documentation showing the flow meter has been calibrated.
3. Respondent shall take flow readings in accordance with Part I.A of the Permit. Beginning with the monitoring period of the effective date of this Order and lasting for a period of two (2) years thereafter, Respondent shall attach the monthly flow readings for the facility to the corresponding DMRs in NetDMR.
4. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to DEQ, for review and approval, a comprehensive Corrective Action Plan (CAP) developed by a Professional Engineer (P.E.) licensed in the state of Arkansas. The CAP shall include, at minimum, the methods and best available technologies that will be used to correct the violations listed in Findings of Fact and prevent future violations. The CAP shall also identify a system that will be implemented to ensure that Respondent meets all reporting requirements set forth in the Permit. The CAP shall include a reasonable milestone schedule with a date of final compliance no later than December 31, 2027. Upon review and approval by DEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date contained in the approved CAP. The milestone schedule and final compliance date shall be fully enforceable as terms of this Order.

5. On or before the fifteenth (15th) day of the month following the effective date of this Order, and each quarter thereafter for a period lasting until this Order is closed, Respondent shall submit quarterly progress reports detailing the progress that has been made towards compliance with the permitted effluent limits set forth in Part I.A of the Permit. Within thirty (30) calendar days of the final compliance date in the approved CAP, Respondent shall submit a final compliance report that includes a certification of compliance, signed and stamped by a P.E. licensed in the state of Arkansas.

6. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Nine Thousand Two Hundred Fifty Dollars (\$9250.00), of which Five Thousand Two Hundred and Fifty Dollars (\$5250.00) shall be conditionally SUSPENDED by DEQ. The allowance of a conditional suspension is based upon DEQ's primary goal of regulatory compliance and Respondent's efforts to take appropriate corrective actions to achieve compliance with the Permit. If Respondent fully complies with this Order, the suspended civil penalty of Five Thousand Two Hundred and Fifty Dollars (\$5250.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties are contingent upon Respondent complying with the terms of this Order. If Respondent violates any term of this Order, the full balance of Nine Thousand Two Hundred Fifty Dollars (\$9250.00) shall be payable immediately to DEQ. Payment of the civil penalty in the amount of Four Thousand Dollars (\$4000.00) is payable in four (4) quarterly installments of One Thousand Dollars (\$1000.00). The first installment is due within thirty (30) calendar days of the effective date of this Order. 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 penalty² within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.

7. 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 the 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.

8. 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.

9. DEQ may grant an extension of any provision of this Order if Respondent requests such an extension in writing, and 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. Respondent has the burden of proving that any delay is caused by circumstances beyond the control and without the fault of Respondent, as well as the length of the delay attributable to such circumstances. Failure to notify DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

10. 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.

11. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 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) calendar 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 Rule 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.

12. 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.

13. 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.

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

15. The City Council of 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 as set forth in this Order. See Exhibit A.

SO ORDERED THIS 10 DAY OF March, 2025.


BAILEY M. TAYLOR,
CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Bauxite

BY: 
(Signature)

Eddie Jones
(Typed or printed name)

TITLE: Mayor

DATE: 2/24/2025

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RESOLUTION 1 of 2025

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE CONSENT ADMINISTRATIVE ORDER WITH THE ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT DIVISION OF ENVIRONMENTAL QUALITY

WHEREAS, The City of Bauxite owns and operates a sewer system for residents and others living outside the corporate limits of the city;

WHEREAS, the City of Bauxite agrees to the facts and allegations stated in the attached "Consent Administrative Order" as authorized February 2025 (CAO) and does not wish to dispute those facts and allegations;

WHEREAS, the City Council for the City of Bauxite hereby authorizes the Mayor to execute the attached CAO, including authorizing payment of the agreed upon fine, and directs the Mayor to comply with the terms of the CAO.

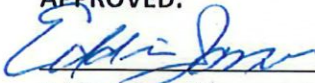
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BAUXITE, ARKANSAS:

Section 1. Approval and Adoption of the "Consent Administrative Order" as authorized February 2025.


The City Council of the City of Bauxite authorizes the Mayor of the City of Bauxite to execute the attached and included "Consent Administrative Order."

Passed this 24th day of February, 2025.

APPROVED:


Eddie Jones, Mayor

ATTEST:


Renee Chastain, Recorder/Treasurer

