

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Sheridan White Rock, Inc.
P.O. Box 485
Sheridan, AR 72150

LIS No. 18- **069**
Permit No. AR0049751
AFIN 27-00030

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order ("Order") is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act ("the 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 issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the Sheridan White Rock, Inc. ("Respondent") and the Arkansas Department of Environmental Quality (ADEQ or "Department"), 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 facility ("Facility") located south of Sheridan on Grant County Road 8, Grant County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary, thence to Lost Creek, thence to the Saline River, thence to the Ouachita River in Segment 2C of the Ouachita River Basin.
3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

4. 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).
5. ADEQ is authorized under the Arkansas Water and Air Pollution Control Act to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an 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, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].
7. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes ADEQ 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.
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. NPDES Permit Number AR0049751 (“Permit”) was issued to the Respondent on June 5, 2013. The Permit became effective on July 1, 2013 and will expire on June 30, 2018.
10. Part III, Section D, Condition 10 of the Permit requires Respondent to submit a complete permit renewal application at least 180 days prior to the expiration date of the Permit if the activity regulated by the Permit is to continue after the expiration date.

11. Respondent intends to operate this facility beyond the expiration date of the current permit, June 30, 2018.
12. On July 6, 2017 and October 2, 2017, Respondent was notified that the Permit would expire on June 30, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than January 1, 2018.
13. The Department received Respondent's application for renewal of the Permit on December 29, 2017, with additional information received on February 5, 2018. The Permit application was deemed administratively complete on February 9, 2018. Respondent failed to submit a complete Permit renewal application by January 1, 2018.
14. Failure to submit the Permit renewal application by January 1, 2018, is a violation of Part III, Section D, Condition 10 of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).
15. On April 16, 2018, the Department conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by the Respondent in accordance with the Permit.
16. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from March 1, 2015 through March 31, 2018:
 - a. Eight (8) violations for Chemical Oxygen Demand;
 - b. One (1) violation for pH; and
 - c. Nine (9) violations for Total Suspended Solids.
17. Each of the eighteen (18) discharge limitation violations listed in Paragraph 16 above constitutes a separate permit violation for a total of eighteen (18) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with the existing Permit until either the effective date of the permit renewal or the effective date of the permit termination.
2. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to ADEQ, for review and approval, a comprehensive Corrective Action Plan (CAP) developed by a Professional Engineer licensed in the state of Arkansas. The CAP shall detail the methods and best available technologies that will be used to correct the violations listed in Paragraph 16 in the Findings of Fact, prevent future violations, and include a reasonable milestone schedule with a date of final compliance of June 30, 2019. Upon review and approval by ADEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date of June 30, 2019 contained in the approved CAP. The milestone schedule and final compliance date June 30, 2019 shall be fully enforceable as terms of this Order.
3. 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 final permitted effluent limits and Part II, Condition 5 of the Permit. Respondent shall submit the final compliance report by July 31, 2019.
4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Three Thousand Dollars (\$3,000.00), of which One Thousand Five Hundred Dollars (\$1,500.00) shall be conditionally suspended by ADEQ. Payment of One Thousand Five Hundred Dollars (\$1,500.00) 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 Arkansas Department of Environmental Quality, and mailed to the attention of:

Arkansas Department of Environmental Quality
Fiscal Division
5301 Northshore Drive
North Little Rock, AR 72118

The suspension and dismissal of civil penalties is contingent upon the Respondent complying with the terms of this Order. If Respondent fully complies with this Order, the suspended civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) shall be DISMISSED by ADEQ. If Respondent violates any term of this Order, or fails to pay the reduced sum of One Thousand Five Hundred Dollars (\$1,500.00), the full balance of Three Thousand Dollars (\$3,000.00) shall become immediately due and payable to ADEQ. In the event that Respondent fails to pay the civil penalty within the prescribed time, ADEQ shall be entitled to attorneys' fees and costs of collection.

5. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If Respondent should fail to meet any such requirements or deadlines, the Respondent consents and agrees to pay on demand to ADEQ 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 which may be available to ADEQ by reason of failure by Respondent 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 Respondent with the requirements or deadlines of this Order, Respondent 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 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.

7. ADEQ 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 ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

8. All requirements by the Order and Agreement are subject to approval by ADEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by ADEQ, submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies. Failure to adequately respond to such Notice of Deficiency within the timeframe specified in writing by ADEQ constitutes a failure to meet the requirements established by this Order.

9. 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. 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 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.

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

11. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 24 DAY OF July, 2018.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

SHERIDAN WHITE ROCK, INC.

BY: Lorre Moore Parrish
(Signature)

Lorre Moore Parrish
(Typed or printed name)

TITLE: President

DATE: 7/20/2018