

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Sparkman
P.O. Box 165
Sparkman, AR 71763

LIS No. 20-011
Permit No. AR0035939
AFIN 20-00034

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 Sparkman (Respondent) and the Division of Environmental Quality¹ (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 municipal wastewater treatment facility (“facility”) located at the intersection of Morris Ave. and W. Ethel St., Sparkman, Dallas County, Arkansas.
2. Respondent discharges treated wastewater to Cypress Creek, thence to the Ouachita River in Segment 2F of the Ouachita River Basin.

¹ 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. 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. 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.
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 and Respondent executed Consent Administrative Order LIS 14-162 on November 11, 2014, and that Order became effective on December 25, 2014.
10. DEQ issued NPDES Permit Number AR0035939 (“Permit”) to Respondent on August 12, 2015. The Permit became effective on September 1, 2015, and expires on August 31, 2020.

11. On May 31, 2019, DEQ conducted a compliance evaluation inspection of the facility. The inspection revealed the following violations:

- a. An unpermitted discharge of wastewater from the chlorine contact chamber was observed. The Permit only authorizes Respondent to discharge from Outfall 001. Discharge from the chlorine contact chamber is an unpermitted discharge in violation of Part 1.A of the Permit and therefore in violation of Ark. Code Ann. § 8-4-217(a)(3).
- b. Respondent has not monitored the influent for Carbonaceous Biochemical Oxygen Demand (CBOD5), Biochemical Oxygen Demand (BOD), and Total Suspended Solids (TSS) as required to calculate the percent removal to ensure compliance with the required removal efficiency stated in Part II.2 of the Permit. Failure to monitor and calculate removal efficiency for CBOD5, BOD, and TSS is a violation of Part II.2 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
- c. Respondent failed to report the unpermitted discharge of wastewater from the chlorine contact chamber to DEQ within twenty-four (24) hours of becoming aware of the unpermitted discharge. This failure is a violation of Part III.D.6.A of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
- d. The flow measurement device was inundated with water and incapable of providing a flow measurement. This condition 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).

- e. Non-Compliance Reports (NCRs) submitted by Respondent do not contain all of the necessary information. This failure is a violation of Part III, Section D, Item 7 of the Permit and therefore is a violation of Ark, Code Ann. § 8-4-217(a)(3).

12. On July 2, 2019, DEQ notified Respondent of the inspection results and requested a written response to the violations noted in the inspection report be submitted to DEQ within thirty (30) calendar days of receipt of the inspection results. On September 3, 2019, DEQ received the Respondent's response to the violations cited in the inspection report.

13. On February 14, 2020, DEQ received a Permit renewal application from Respondent, with additional information received on March 3, 2020. The Permit renewal application was deemed complete on March 3, 2020, and Respondent's coverage was administratively continued pursuant to APC&EC Rule 6.201.

14. On September 30, 2020, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

15. 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, 2015 through August 1, 2020:

- a. Nine (9) violations of TSS;
- b. One (1) violation of BOD;
- c. Two (2) violations of CBOD5;
- d. Two (2) violations of Ammonia Nitrogen; and
- e. Nine (9) violations of Fecal Coliform.

16. Each of the twenty-three (23) discharge limitation violations listed above constitutes a separate permit violation for a total of twenty-three (23) separate violations 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 14-162 shall be closed.
2. On or before November 30, 2020, Respondent shall, submit to DEQ, for review and approval, a comprehensive CAP developed by a Professional Engineer licensed in the state of Arkansas. The CAP shall include, at minimum the methods and best available technologies that will be used to correct and prevent reoccurrence of the violations listed in Findings of Fact Paragraphs 11 and 14 and prevent future violations, and the CAP shall include a reasonable milestone schedule with a date of final compliance no later than September 30, 2022. Upon review and approval by DEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date contained the approved CAP. The milestone schedule and final compliance date of September 30, 2022, 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 I.A of the Permit. Respondent shall submit a final compliance report on or before September 30, 2022.
4. Upon the effective date of this Order, Respondent shall submit an interim operating plan that describes, in detail, the operational measures that will be taken to maximize the removal efficiency of all pollutants covered by the Permit. Respondent shall implement the interim operating plan immediately upon its submittal to DEQ.

5. On or before the effective date of this Order, Respondent shall submit corrected NCRs with all of the necessary information.

6. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Seven Thousand Nine Hundred Dollars (\$7900.00), of which Three Thousand Nine Hundred Fifty Dollars (\$3950.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of Three Thousand Nine Hundred Fifty Dollars (\$3950.00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this Order. If Respondent violates any term of this Order, the full balance of Seven Thousand Nine Hundred Dollars (\$7900.00) shall become due and payable immediately to DEQ. Payment of Three Thousand Nine Hundred Fifty Dollars (\$3950.00) is to be paid in four (4) consecutive payments of Nine Hundred Eighty-Seven Dollars and Fifty Cents (\$987.50). The first payment is due within thirty (30) calendar days after the effective date of this Order. Each subsequent monthly payment is due on or before the last day of each month until the civil penalty is paid in full. 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.

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 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) 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 11th DAY OF January, 2021

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Sparkman

BY: Rickey L. Craig
(Signature)

Rickey L. CRAIG
(Typed or printed name)

TITLE: Mayor

DATE: 10-6-20

SPARKMAN CITY COUNCIL MEETING OCTOBER 6, 2020

Mayor Rickey Craig called the Sparkman City Council Meeting to order at 6:45 p.m. on October 6, 2020 in the Sparkman Community Room. The meeting was delayed due to no quorum. The Council Meeting was moved to the Sparkman Community Room, due to the COVID-19 outbreak and the need for Social Distancing. Council Member White opened the Council Meeting with prayer.

Council members present were: Bobbie Walker, Heather Williams, Donny White, Mary Oliver, Recorder/Treasurer Rita Fite, and Mayor Rickey Craig. Council Members Johnny Gordon and Council Member Jeff Ford were absent. Attorney Chris Riddle was filling in the absence of Attorney Taylor King.

Mayor Craig welcomed the visitors present: Anna Ray & Chris Riddle

Council Member Walker made a motion to approve the September 2020 minutes. Council Member White seconded the motion. The motion carried.

STANDING COMMITTEE REPORTS:

WATER: Water Superintendent Tony Remsen reported Council Member Jeff Ford was working on redoing the prices for running the water line to The North Fork Country Store. Council Member White asked about the water line to North Fork Country Store, Attorney Chris Riddle stated that they had come into a problem with the easement on the properties. One of the properties, they can't locate who owns it, so that we can get an easement on the property. Tony reported that they had a water leak that was repaired.

Council Member Walker brought up that her church, Harmony Baptist had a \$200 water bill, Council Member Walker asked if there was any help that could be given to them. The Council agreed to cut the water bill by 25% off on a once in a life time basis.

SEWER: Sewer Superintendent Tony Remsen reported that there was a problem with Tim Woffards sewer line, which was found when they put a camera in the sewer line. The sewer line on Main Street, (Tim Woffards) has been repaired.

Council Member Oliver made a motion to accept the Proposed Consent Administrative Order as presented. Council Member Walker seconded the motion. The motion carried. The City Council authorizes the Mayor and Recorder/Treasurer to sign the CAO on behalf of the City of Sparkman.

STREET & DITCH: Tony stated that they had been cleaning ditches and working on spraying the ditches and cutting the grass down.

PARK & REC: Tony reported that the Park & Rec. did not received the Fun Park Grant that they had applied for.

POLICE: No Report,

FIRE: No Report.

UNFINISHED BUSINESS:

Mayor Rickey Craig stated that we were trying to get the Clinic going. He wanted to pay two people to clean the Clinic, on the inside and outside. Council Member White made a motion to donate \$500 to get the Clinic cleaned and anything else that needed to be done. Council Member Oliver seconded the motion. The motion carried.

Mayor Rickey Craig brought up changing the locks on the Clinic. Attorney Chris Riddle stated that not to change the locks just yet, that Baptist would probably want to change them.

NEW BUSINESS:

Council Member White made a motion to get a plaque for Ms. Dorothy Randle in appreciation for helping keep our City clean. Ms. Randle voluntarily goes around our City and picks up trash. Council Member Oliver seconded the motion. The motion carried.

Bud Launius--Sewer--Bud stated to Sewer Superintendent Tony Remsen that he was having sewer problems. Bud further stated that back in 2007 he was forced to get on the sewer system that he has. Bud has vacated this property and sewer system for 3 to 4 years. The electrical wires on the sewer pump system has been taken off. The Sewer Superintendent contacted Sam May, who was the sewer superintendent in 2007 and Council Member Jeff Ford, who worked for the City then also. Mr. May and Council Member Ford both stated that Mr. Launius was not forced to hook on to his Sewer System, and it was also stated that the homeowner is responsible for the sewer repairs.

Mayor Rickey Craig introduced Resolution No. 2020-3, A Resolution To Fix The Rate of Taxation of Real And Personal Property in the City of Sparkman, Arkansas For The Year 2020. Council Member Williams made a motion to read Resolution No. 2020-3. Council Member Oliver seconded the motion. The motion carried. Attorney Chris Riddle read Resolution No. 2020-3 in its entirety. Council Member Walker made a motion to accept Resolution No. 2020-3. Council Member Oliver seconded the motion. The motion carried. The Resolution No. 2020-3 was passed.

Council Member Walker asked about writing a letters to the ones that was building without getting a permit. Superintendent Tony Remsen reported that no letter was written due to the buildings being already too far along.

Council Member White asked if Attorney Chris Riddle could help him and Council Member Walker with the zoning.

PAY BILLS--Council Member White made a motion to pay the bills. Council Member Oliver seconded the motion. The motion carried.

ADJOURN—Council Member Oliver made a motion to adjourn. Council Member Williams seconded the motion. The motion carried. The meeting was adjourned at 7:59 p.m.



Recorder/Treasurer



Mayor