

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Sardis Water Association
Public Water Authority
23820 North Sardis Road
Mabelvale, AR 72103

LIS No. 21- 095
Permit Tracking No. ARG640184
AFIN 27-00382

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

The issues herein having been settled by the agreement of the Sardis Water Association Public Water Authority (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 water treatment plant with a filter backwash (“facility”) located at 725 Grant 53, Sheridan, Grant County, Arkansas.
2. Respondent discharges treated wastewater to unnamed tributary of Hurricane Creek, thence to Hurricane Creek, thence to the Saline River, thence to the Ouachita River.

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. § 8-4-217(b)(1)(A) provides:

(b)(1) It shall be unlawful for any person to engage in any of the following acts without having first obtained a written permit from [DEQ]:

(A) To construct, install, modify, or operate any disposal system or any part thereof, or any extension or addition thereto, that will discharge into any of the waters of this state;

8. 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.

9. 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.”

10. On June 3, 2016, DEQ issued the current NPDES Water Treatment Plant General Permit ARG640000 for Water Treatment Plants with a wastewater discharge located within the State of Arkansas with an effective date of December 1, 2016, and an expiration date of November 30, 2021.

11. On March 23, 2021, Respondent and DEQ had a meeting held via Zoom. During the meeting Respondent stated that construction of a new treatment plant with filter backwash ponds for Respondent’s Water Treatment Plant had been completed without obtaining coverage under NPDES Water Treatment Plant General Permit ARG640000 for Water Treatment Plants with a wastewater discharge located within the State of Arkansas.

12. Constructing a wastewater treatment facility without first obtaining a permit from DEQ is a violation Ark. Code Ann. § 8-4-217(b)(1)(A) and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

13. On April 7, 2021, DEQ issued coverage under NPDES Water Treatment Plant General Permit ARG640000 for Water Treatment Plants with a wastewater discharge located within the State of Arkansas to Respondent with a coverage date of April 7, 2021, and an expiration date of November 30, 2021.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. This Order addresses all violations referenced in the Findings of Fact.
2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of One Thousand Four Hundred Dollars (\$1400.00), or

one-half of the full civil penalty of Seven Hundred Dollars (\$700.00) if this Order is signed and returned to the Office of Water Quality Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar day of receipt of this Order. Payment 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 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. The undersigned representative of the Respondent certifies that he or she is a Commissioner of the Respondent and thus authorized to execute this CAO and to legally bind the Respondent to its terms and conditions. Execution of this CAO by an individual other than a Commissioner 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 22ND DAY OF SEPTEMBER, 2021.



JULIE LINK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

Sardis Water Association Public Water Authority

BY: 

(Signature)

Roger Moren

(Typed or printed name)

TITLE: General Manager

DATE: 9/3/2021
