

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Piggott  
194 West Court  
Piggott, AR 72454

LIS No. 22-005  
Permit No. AR0033472  
AFIN 11-00056

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 City of Piggott (Respondent) and the Division of Environmental Quality<sup>1</sup> (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”) located on Independence Drive in Piggott, Clay County, Arkansas.
2. Respondent discharges treated wastewater to Big Slough Ditch thence to the St. Francis River in Segment 5A of the St. Francis River Basin.

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<sup>1</sup> 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 issued the current NPDES Permit Number (AR0033472) (“Permit”) to Respondent on November 17, 2014. DEQ issued the renewal Permit to Respondent on November 24, 2020. The Permit became effective on December 1, 2020, and expires on November 30, 2025.

10. On May 15, 2020, the Environmental Protection Agency (EPA) issued a Compliance Plan to Respondent as part of the Circuit Rider Assistance Program to address the violations of the permitted effluent discharge limitations.

11. On July 14, 2021, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

12. 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 May 1, 2018, through May 31, 2021:

- a. Thirty-six (36) violations of Carbonaceous Biochemical Oxygen Demand;
- b. Fifty (50) violations of Total Suspended Solids;
- c. Three (3) violations of Dissolved Oxygen;
- d. Fifty-two (52) violations of Ammonia Nitrogen; and
- e. Twenty-five (25) violations of Fecal Coliform Bacteria.

13. Each of the 166 discharge limitation violations listed in Paragraph 12 above constitutes a separate permit violation for a total of 166 separate violations of Ark. Code Ann. § 8-4-217(a)(3).

14. On July 14, 2021, DEQ sent Respondent a letter requesting a Corrective Action Plan (CAP) be submitted to the Division within thirty (30) days of receipt of that letter. The CAP was to have a milestone schedule, a final date of compliance, and be certified by a Professional Engineer (P.E.) licensed in the state of Arkansas.

15. On July 29, 2021, DEQ and Respondent met to discuss the violations of the permitted effluent discharge limitations.

16. On August 9, 2021, Respondent submitted a CAP to DEQ with a final compliance date of August 31, 2022.

17. On August 30, 2021, DEQ notified Respondent via letter that the CAP was adequate and provided comments.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. 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.

2. On or before the fifteenth (15th) day of the month following the effective date of this Order, and each quarter thereafter until December 31, 2022, Respondent shall submit quarterly progress reports detailing the progress that has been made towards compliance with the final permitted effluent limits set forth in Part I, Section A of the Permit. Respondent shall submit the final compliance report, stamped by a P.E. licensed in the state of Arkansas, by December 31, 2022.

6. In compromise and full settlement of the violations specified in the Findings of Fact Respondent agrees to pay a civil penalty of Five Thousand Six Hundred Dollars (\$5600.00), of which Five Thousand Six Hundred Dollars (\$5600.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of Five Thousand Six Hundred Dollars (\$5600.00) 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 Five Thousand Six Hundred Dollars (\$5600.00) shall be payable immediately to DEQ. 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 to the extent permitted by law.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

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

14. 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 3<sup>RD</sup> DAY OF January, 2021. 2022

  
JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Piggott

BY:   
(Signature)

TRAVIS WILLIAMS  
(Typed or printed name)

TITLE: MAYOR

DATE: 12-7-21

RESOLUTION NO. 515-21

**A RESOLUTION AUTHORIZING THE CITY OF PIGGOTT TO ENTER INTO A CONSENT ADMINISTRATIVE ORDER WITH THE DIVISION OF ENVIRONMENTAL QUALITY, AND FOR OTHER PURPOSES.**

WHEREAS, the City of Piggott, upon review of a Consent Administrative Order and the rules by the Arkansas Pollution Control and Ecology Commission and review of plans for the municipal wastewater treatment facility in the City of Piggott; and

WHEREAS, in anticipation of various discharge reports and presenting a corrective action plan approved by the State of Arkansas, and

WHEREAS, the City of Piggott has reached an agreement to implement the Corrective Action Plan, as proposed by DEQ.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PIGGOTT, ARKANSAS, AS FOLLOWS:**

**SECTION 1.** That the City Council of the City of Piggott do hereby agree to enter into an agreement with the DEQ and authorize the Mayor and the City Clerk to expend funds for compliance activities, approves the Consent Administrative Order and authorizes the Mayor and City Clerk to sign the Consent Administrative Order on behalf of the City of Piggott.

PASSED AND APPROVED this 6<sup>th</sup> day of December, 2021.

CITY OF PIGGOTT, ARKANSAS

By: 

Mayor

ATTEST:

