

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Lake Village  
P.O. Box 725  
Lake Village, AR 71653

LIS No. 22- **050**  
Permit No. AR0021849  
AFIN 09-00028

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 Lake Village (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 minor municipal wastewater treatment plant (“facility”) located at 154 Highway 82 West in Lake Village, Chicot County, Arkansas.
2. Respondent discharges treated wastewater to Little Lake Bayou, thence to Bayou Macon (in AR then to LA), thence to Tensas Lake (in LA), thence to the Tensas River (in LA), thence to the Ouachita River (in LA) in Segment 2A of the Ouachita 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 NPDES Permit Number AR0021849 (“Permit”) to Respondent on September 17, 2019. The Permit became effective on November 1, 2019, and expires on October 31, 2024.

10. On November 20, 2019, Respondent submitted a Corrective Active Plan (CAP) to DEQ to address continued effluent violations. The CAP discussed the corrective actions that would be

completed to come into compliance with the effluent limits of the Permit, and included milestones for Respondent to submit a land application permit to DEQ. The CAP contained a final compliance date of November 25, 2020.

11. On December 11, 2019, DEQ sent Respondent a letter approving the CAP submitted on November 20, 2019. By this letter, DEQ also requested that quarterly progress reports be submitted until the CAP was completed.

12. On January 14, 2020, Respondent submitted an application for a State No-Discharge permit for the land application of municipal biosolids to DEQ.

13. On July 9, 2020, DEQ notified Respondent via letter that the application submitted on January 14, 2020, was administratively complete.

14. DEQ issued State No-Discharge Permit Number 5356-W (“No-Discharge Permit”) to Respondent on July 25, 2021. The No-Discharge Permit became effective on August 1, 2021, and expires on July 31, 2026.

15. On September 2, 2021, DEQ performed a review of the certified Discharge Monitoring Reports (DMRs) submitted by 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 August 1, 2018, through July 31, 2021:

- a. Twenty-five (25) violations of Ammonia Nitrogen;
- b. Twelve (12) violations of Total Suspended Solids; and
- c. Four (4) violations of Fecal Coliform Bacteria.

17. Each of the forty-one (41) discharge limitation violations listed in Paragraph 16 above constitutes a separate permit violation for a total of forty-one (41) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

18. The review of the DMRs also revealed that Respondent reported a flow higher than the design flow of the treatment plant for twenty-nine of the thirty-six monitoring periods of the review period.

19. On September 2, 2021, DEQ sent Respondent a letter requesting a CAP to address the violations of the permitted discharge limitations. The CAP was to have a milestone schedule, final date of compliance, and be certified by a Professional Engineer (P.E.) licensed in the state of Arkansas. The CAP was to be submitted to DEQ by October 5, 2021.

20. On September 24, 2021, Respondent submitted a CAP to DEQ with a final compliance date of October 1, 2022.

21. On October 8, 2021, DEQ sent Respondent a letter approving the CAP submitted on September 24, 2021, with the following comments:

- a. Contact DEQ within ten (10) days of receipt of this letter to schedule a meeting to discuss the CAP and the corrective actions; and
- b. Notify DEQ at least ten (10) days before the date of the bypass in accordance with Part III, Section B, Condition 4 of the Permit.

22. On October 27, 2021, DEQ and Respondent met discuss the effluent violations and the high flows.

23. On November 2, 2021, DEQ performed a follow-up review of the DMRs submitted by Respondent in accordance with the permit.

24. 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 August 1, 2021, through September 30, 2021:

- a. Three (3) violations of Total Suspended Solids;
- b. Two (2) violations of Ammonia Nitrogen; and
- c. Two (2) violations of Fecal Coliform Bacteria.

25. Each of the seven (7) discharge limitation violations listed in Paragraph 24 above constitutes a separate permit violation for a total of seven (7) 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 implement the approved CAP in accordance with the milestone schedule contained in the CAP submitted to DEQ on September 24, 2021. The approved CAP, including the milestone schedule, and a final date of compliance date of October 1, 2023, shall be fully enforceable as terms of this Order.

2. Within ninety (90) calendar days of the effective date of this Order, Respondent shall submit to DEQ, for review and approval, a comprehensive Sanitary Sewer Flow Monitoring and Infiltration and Inflow (I/I) Study (“Study”) developed by a P.E. licensed in the state of Arkansas. The Study shall include, at minimum, a baseline for sanitary sewer flows, rainfall monitoring, an estimate of available sewer capacity, identification of sources of I/I, an estimation of I/I, and a plan with a milestone schedule for reducing I/I. The Study shall detail the methods and best available technologies that will be used to address the increase in flow reported to DEQ. Upon review and approval by DEQ, Respondent shall comply with the terms, milestone

schedule, and final compliance date. The approved milestone schedule and final compliance date 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 set forth in Part I, Section A of the Permit and towards reducing I/I through implementation of the Study. Respondent shall submit the final compliance report by October 1, 2023.

4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of One Thousand Six Hundred Dollars (\$1600.00), of which One Thousand Six Hundred Dollars (\$1600.00) 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 current efforts to obtain compliance. If Respondent fully complies with this Order, the suspended civil penalty of One Thousand Six Hundred Dollars (\$1600.00) 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 One Thousand Six Hundred Dollars (\$1600.00) 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.



11. 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.

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

13. 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 26~~th~~ DAY OF April, 2022.

  
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JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Lake Village

BY:  \_\_\_\_\_  
(Signature)

JOE DAN YEE  
\_\_\_\_\_  
(Typed or printed name)

TITLE: Mayor \_\_\_\_\_

DATE: April 5, 2022

# CITY OF LAKE VILLAGE



JOE DAN YEE  
MAYOR

Resolution Number: 01-22

## A RESOLUTION DESIGNATING AND AUTHORIZING THE MAYOR TO EXECUTE CERTAIN DOCUMENTS IN CONNECTION WITH ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT CAO DOCUMENT

WHEREAS. the City of LAKE VILLAGE, Arkansas owns and operates a WATER AND SEWER system in order to provide WATER AND SEWER service to meet the needs of the city and its inhabitants; and

WHEREAS, the City Council has determined that it is in the best interest of the city and its inhabitants to agree with the Consent Administrative Order (CAO) proposed by the Arkansas Department of Energy and Environment attached to a letter dated March 16, 2022. The CAO stipulates the order and various conditions of the agreement base on a Corrective Action Plan (CAO) submitted by the city to the department. By agreeing to the CAO, the City of Lake Village consents to all the requirements of the order and the stipulated time schedule for achieving various milestones of the agreement.

NOW, THEREFORE. BE IT RESOLVED by the City Council of LAKE VILLAGE, Arkansas:

Section 1. That the Mayor of the City, as a Signatory Agent or the successor of said Agent, is hereby authorized and directed to execute the CAO document as necessary to fulfil the agreement.

Section 2. That the Mayor of the City, as a Signatory Agent or the successor of said Agent, is hereby authorized to execute, for and on behalf of the City, all other documents and certificates required.

Passed:

APPROVED:

4-5-2022

Attest: