

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Parkin  
P.O. Box 489  
Parkin, AR 72373

LIS No. 22- 106  
Permit No. AR0033588  
AFIN 19-00073

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 Parkin (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 ("facility") located on Slabaugh Street, Parkin, Cross County, Arkansas.
2. Respondent discharges treated wastewater to the St. Francis River in Segment 5A of the St. Francis River Basin.

<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 AR0033588 ("Permit") to Respondent on July 17, 2017. The Permit became effective on August 1, 2017, and expires on July 31, 2022.
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, July 31, 2022.

12. On August 2, 2021, and November 1, 2021, Respondent was notified that the Permit would expire on July 31, 2022, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than February 1, 2022.

13. DEQ did not receive a complete Permit renewal application by February 1, 2022. Failure to submit the Permit renewal application by February 1, 2022, is a violation of Part III, Section D, Condition 10 of the Permit and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

14. On January 14, 2021, DEQ conducted a routine compliance evaluation inspection of the facility. DEQ documented the following during the inspection:

a) High vegetation, including several trees, was observed on lagoon levees.

Respondent's failure to maintain the lagoon levees by not removing excess vegetation, including trees, constitutes improper operation and maintenance of the facility in violation of Part III Section B Condition 1.A of the Permit and therefore in violation of Ark. Code Ann. § 8-4-217(a)(3).

b) Respondent does not have a wastewater operator with a current license. Pursuant to Part II, Condition 1 of the Permit, Respondent is required to have a wastewater operator that holds a Class I wastewater license issued pursuant to APC&E Rule 3. Failure to employ or contract with a properly licensed operator is a violation of Part II, Condition 1 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

- c) DEQ observed discharge from Outfall 001 at the time of the inspection. DEQ noted that all discharges must be monitored according to the sampling frequency set forth in Part I, Section A of the Permit.
- d) Respondent has not calculated a percentage removal for Carbonaceous Biochemical Oxygen Demand (CBOD) and Total Suspended Solids (TSS) per the requirements of Part II, Condition 2 of the Permit. Failure to conduct the percentage removal for CBOD and TSS is a violation of Part II, Condition 2 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

15. On March 25, 2021, DEQ notified Respondent via letter of the January 14, 2021 inspection results and requested a written response to the violations be submitted to DEQ by April 12, 2021.

16. On April 6, 2021, DEQ received a response to the violations cited in the inspection on January 14, 2021, from Respondent.

17. On April 7, 2021, DEQ conducted a review of Respondent's inspection response submitted on April 6, 2021, and found the following deficiencies:

- a) The wastewater treatment operator license submitted was from 2010 and was inactive. The operator allowed his wastewater license to lapse in 2015.
- b) No photographic evidence of vegetation removal was submitted.
- c) No photographic evidence of chlorine usage during a discharge.

18. On May 10, 2021, DEQ conducted a review of the certified Discharge Monitoring Reports (DMR) submitted by Respondent in accordance with the Permit.

19. The review revealed that Respondent has reported No Data Indicator Code (NODI) C = No Discharge for every monitoring period from April 1, 2018, through March 31, 2021.

Specifically, Respondent reported NODI C = No Discharge for the monitoring period for January 2021. During the inspection performed on January 14, 2021, DEQ observed and documented a discharge from the facility. The NODI Code C indicates that Respondent failed to report and sample the effluent discharge that occurred during the January 2021 monitoring period as required by Part I, Section A of the Permit. The failure to report a discharge, sample the effluent discharge, and report the results on a DMR is a violation of Part I, Section A of the Permit and Part III, Section C, Conditions 1, 3, and 5 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. On or before the effective date of this Order, Respondent shall submit an administratively complete permit renewal application.
2. Respondent shall comply with the existing Permit until either the effective date of the permit renewal or the effective date of the permit termination.
3. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit photographic documentation to DEQ that the vegetation observed on the lagoon levees has been removed.
4. Within ninety (90) calendar days of the effective date of this Order, Respondent shall submit to DEQ documentation that they have employed or contracted with a wastewater operator who holds, at minimum, a current and valid Class I wastewater operator license issued by DEQ pursuant to APC&E Rule 3.
5. On or before the effective date of this Order, Respondent shall correct the DMR with a monitoring period end date of January 31, 2021, to reflect the sample results from samples

collected during the monitoring period. If a sample was not taken, then Respondent must report Analysis Not Conducted on the DMR.

6. Respondent shall record and sample all discharges and report the flow and sample results in accordance with Part I, Section A and Part III, Section C, Condition 5 of the Permit.
7. Within sixty (60) calendar days of the effective date of this Order, Respondent shall submit to DEQ a report showing the calculated percentage removal for CBOD and TSS in the effluent.
8. Upon the effective date of this Order, Respondent shall submit to DEQ monthly flow monitoring records showing the flow has been monitored in accordance with Part I, Section A of the Permit. The monthly flow monitoring records shall be submitted to DEQ with the DMR for the corresponding month, and submission of the monthly flow monitoring records shall continue for one (1) year from the effective date of this Order.
9. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Four Thousand Six Hundred Dollars (\$4600.00), of which Four Thousand One Hundred Dollars (\$4100.00) 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 Four Thousand One Hundred Dollars (\$4100.00) 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 Four Thousand Six Hundred Dollars (\$4600.00) shall be payable immediately to DEQ. Payment of the civil penalty in the amount of Five Hundred Dollars (\$500.00) is due within thirty (30) calendar days of the effective date of

this Order. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.



15. 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.

16. 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.

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

18. 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 27th 10 DAY OF October, 2022.

  
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JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Parkin

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

Diane Patterson  
\_\_\_\_\_  
(Typed or printed name)

TITLE: Mayor

DATE: 10-10-2022

RESOLUTION NO. 10-10-2022-1

A RESOLUTION AUTHORIZING THE CITY OF Parkin TO ENTER INTO A CONSENT ADMINISTRATIVE ORDER WITH THE ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY (DEQ)

*WHEREAS, it is in the City's best interest to enter into an agreement with DEQ and resolve the violations of the Arkansas Water and Air Pollution Control Act listed in the proposed Consent Administrative Order.*

*WHEREAS, the Mayor and Public Works Director or other designated person, working with a Professional Engineer, have developed a plan of action to address the issues listed in the proposed Consent Administrative Order.*

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF Parkin:

- 1. The proposed Consent Administrative Order has been reviewed and approved by the City Council in a duly convened meeting with a quorum present.*
- 2. The City Council of the City of Parkin authorizes the Mayor to sign the proposed Consent Administrative Order.*
- 3. The City Council of the City of Parkin authorizes the Mayor and treasurer to expend funds for compliance activities required by the proposed Consent Administrative Order including but not limited to the payment of a civil penalty as set forth in the proposed Consent Administrative Order.*

Adopted on this 10<sup>th</sup> day of October, 2022

APPROVED: *Diane Patterson*  
Mayor

ATTEST: *Premia White*  
City Clerk