

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Lonoke County Property Owners'
Multipurpose Improvement District No. 12
Mound Lake II Phase III Wastewater Treatment Plant
1 Country Club Circle
Maumelle, AR 72113

LIS No. 23-055
Permit No. AR0050831
AFIN 43-00568

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 Lonoke County Property Owners' Multipurpose Improvement District No. 12 Mound Lake II Phase III Wastewater Treatment Plant (Respondent) and the Division of Environmental Quality (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 domestic wastewater ("facility") located on the east side of Bobby Jones Road, Scott, Lonoke County, Arkansas.
2. Respondent discharges treated wastewater to Plum Bayou, thence into Old River Lake, thence to an unnamed tributary, thence to the Arkansas River in Segment 3C of the Arkansas River Basin.

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 a 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 AR0050831 (“Permit”) to Respondent on February 13, 2019. The Permit became effective on March 1, 2019, and expires on February 29, 2024.
10. Per the requirements of Part I, Section B of the Permit, Respondent was to submit progress reports for two (2) years, detailing the actions taken to achieve compliance with the final effluent limits for Total Residual Chlorine (TRC). The progress reports were due one (1) year and two (2)

years from the effective date of the Permit. The final effluent limits for TRC became effective three (3) years from the effective date of the Permit. Respondent was to submit a certification that the facility was in compliance with the final effluent limits for TRC three (3) years from the effective date of the Permit, March 1, 2022.

11. On February 28, 2020, and May 12, 2021, Respondent submitted progress reports detailing the actions taken to come into compliance with the final effluent limits for TRC.
12. On May 24, 2022, Respondent submitted a Corrective Action Plan (CAP) to DEQ detailing the corrective actions necessary to meet the final effluent limits for TRC. The CAP had a final compliance date of June 15, 2023.
13. Failure to certify compliance with the final effluent limits for TRC by March 1, 2022, is a violation of Part I, Section B of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
14. On August 23, 2022, 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, Section A of the Permit from June 1, 2019, through July 31, 2022:
 - a. Thirteen (13) violations of Total Suspended Solids;
 - b. Five (5) violations of Fecal Coliform Bacteria;
 - c. Three (3) violations of Total Residual Chlorine;
 - d. One (1) violation of ammonia Nitrogen; and
 - e. One (1) violation of BOD, carbonaceous.

16. Each of the twenty-three (23) discharge limitation violations listed in Paragraph 15 above constitutes a separate permit violation for a total of twenty-one (21) separate violations of Ark. Code Ann. § 8-4-217(a)(3).
17. The review of the DMRs also revealed that Respondent reported a laboratory error or invalid test for Ammonia Nitrogen, Fecal Coliform Bacteria, and Carbonaceous Biochemical Oxygen Demand (CBOD) for the monitoring period ending October 31, 2021. Failure to monitor the effluent in accordance with the requirements set forth in Part I, Section A of the Permit is a violation of Part I, Section A of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
18. On August 31, 2022, Respondent submitted a State Construction Permit application for modification of the Permit to DEQ with additional information submitted on September 6, 2022. Respondent plans to replace the current tablet chlorinator disinfection system with an UV disinfection system.
19. On September 13, 2022, DEQ notified Respondent that the State Construction Permit application has been reviewed and determined to be administratively complete.
20. On December 15, 2022, Respondent submitted a revised CAP and milestone schedule to DEQ. The revised milestone schedule extended the final compliance date to January 15, 2024.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall submit all DMRs in accordance with Part III, Section C, Condition 5 of the Permit.
2. Respondent shall complete the terms and milestones contained in the CAP submitted to DEQ on December 15, 2022. The final compliance date shall be the last day of the twelfth month

following the effective date of the Construction Permit. The milestones 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 completion of the milestones and compliance with the final permitted effluent limits set forth in Part I, Section A of the Permit. Respondent shall submit a final compliance report stamped by a Professional Engineer licensed in the state of Arkansas, and shall certify that completion of the milestones and compliance with the permitted effluent limits was achieved on or before the final compliance date set forth in Paragraph 2 above.

4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Five Thousand Three Hundred Dollars (\$5300.00), of which Four Thousand Eight Hundred Dollars (\$4800.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of Four Thousand Eight Hundred Dollars (\$4800.00) 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 Three Hundred Dollars (\$5300.00) 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.

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. The undersigned representative of the Respondent certifies that he or she is a Commissioner of Respondent and thus authorized to execute this Order and to legally bind Respondent to its terms and conditions. Execution of this Order 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 10th DAY OF July, 2023.



CALEB J. OSBORNE, DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR
CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

Lonoke County Property Owners' Multipurpose Improvement District No. 12 Mound Lake II
Phase III Wastewater Treatment Plant

BY: Ronnie J. Shrader
(Signature)

Ronnie J. Shrader
(Typed or printed name)

TITLE: Commissioner

DATE: 7/7/2023