

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Crowley's Ridge College
100 College Drive
Paragould, AR 72450

LIS No. 24- 028
Permit No. Unpermitted
AFIN 28-00049

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 Crowley's Ridge College (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 collegiate institution with an unpermitted single-cell lagoon wastewater treatment facility ("facility"), located at 100 College Drive, Paragould, Greene County, Arkansas.
2. The discharge from this facility flows to an unnamed tributary of Eight Mile Creek, thence to Eight Mile Creek, thence to the St. Francis River in Segment 5A of the St. Francis 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. § 8-4-217(b)(1) provides that it shall be unlawful for any person to discharge sewage, industrial waste, or other wastes into any waters of this state or to operate any disposal system or any part thereof, or any extension or addition thereto, that will discharge into any waters of the state without first obtaining a permit from DEQ.

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. Respondent’s operation of a single-cell lagoon wastewater treatment facility will result in the discharge of sewage, industrial waste, or other wastes into waters of the state.

11. On September 12, 2007, DEQ notified Respondent that the Permit would expire on December 31, 2007, and that a permit renewal application needed to be submitted in order to continue discharging from the facility. Respondent did not submit a permit renewal application. Respondent continued to discharge without an active permit.

12. On January 26, 2023, Respondent notified DEQ that the facility was operating without an active permit.

13. On January 30, 2023, DEQ conducted an inspection of the facility. The inspection revealed the following:

- a. Respondent was operating a single-cell lagoon wastewater treatment facility without a permit issued by DEQ. Operation of this facility without a permit is a violation of Ark. Code Ann. § 8-4-217(b).
- b. The lagoon's levees were overgrown with trees. Were this facility permitted by DEQ, such condition and the two immediately following conditions would be violations of said permit.
- c. The outfall structure has damaged weir plates that resulted in multiple discharges. The resulting discharge was estimated to be under five gallons per minute.
- d. A discharge from the outfall pipe was observed at the time of inspection, but conditions suggested that an underground pipe was damaged and that discharge was flowing subsurface into the adjacent unnamed tributary of Eight Mile Creek. There was no visible impact to the receiving stream at the time of inspection.

14. On February 8 and 10, 2023, Respondent provided DEQ with information about the actions Respondent had taken to address the unpermitted facility.

15. On February 13, 2023, DEQ informed Respondent via email that several manholes were covered only by plywood. This condition could lead to Sanitary Sewer Overflows (SSOs) and other inflow and infiltration (I/I) issues. DEQ advised Respondent to replace the plywood coverings with traditional metal coverings.

16. On February 13, 2023, Respondent replied to DEQ's request, stating that the proper manhole covers would be installed.

17. On February 22, 2023, Respondent notified DEQ via email that the inadequate manhole coverings had been corrected. The response further stated that the facility had repaired the holes found in the levee during the January 30, 2023 inspection, and had found no further leaks.

18. On March 2, 2023, Respondent met with engineers to discuss the design for the installation of a lift station to connect the facility to the City of Paragould's wastewater collection system. It was estimated that installation would commence in June 2023, with a completion date of October 2023.

19. On September 13, 2023, Respondent notified DEQ via email that multiple design issues had impeded the installation of the lift station. Respondent further stated that the City of Paragould had approved the plans for the facility to connect to Paragould's wastewater system. Installation of the connection has not yet begun.

20. On January 29, 2024, Respondent submitted a Corrective Action Plan (CAP) to DEQ, including a milestone schedule, and a final date of compliance of September 30, 2025.

21. On February 2, 2024, DEQ notified Respondent that the submitted CAP was deemed adequate.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with the approved CAP submitted on January 29, 2024. The milestone schedule and final compliance date of September 30, 2025 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 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 approved CAP. Respondent shall submit a final compliance report that includes a certification of connection and a certification of closure of the facility, within thirty (30) calendar days of the final compliance date in the approved CAP or by June 30, 2025, whichever occurs first.
3. 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), of which Seven Hundred Dollars (\$700.00) shall be conditionally SUSPENDED by DEQ. The allowance of a conditional suspension is based upon DEQ's primary goal of regulatory compliance. If Respondent fully complies with this Order, the suspended civil penalty of Seven Hundred Dollars (\$700.00) 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 Four Hundred Dollars (\$1400.00) 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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) calendar 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.

9. 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.

10. Each of the undersigned representatives of the parties certifies that he or she is authorized to execute this Order and to legally bind that party to its terms and conditions.

SO ORDERED THIS 20th DAY OF February, 2024.



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

APPROVED AS TO FORM AND CONTENT:

Crowley's Ridge College

BY: Richard Johnson
(Signature)

RICHARD JOHNSON
(Typed or printed name)

TITLE: President

DATE: 2/16/2024