

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Jasper
Jasper Wastewater Treatment Facility
P.O. Box 434
Jasper, AR 72641

LIS No. 24- 164
Permit No. AR0034584
AFIN 51-00012

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 Jasper - Jasper Wastewater Treatment Facility (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 municipal wastewater treatment plant ("facility") located on Highway 74 in Jasper, Newton County, Arkansas.
2. Respondent discharges treated wastewater to the Little Buffalo River, thence to the Buffalo River, thence to the White River in Segment 4J of the White 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 *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 AR0034584 (“Permit”) to Respondent on January 26, 2021. The Permit became effective on February 1, 2021, and expires on January 31, 2026.

Failure to Submit Permit Schedule Report

10. The Permit Compliance Schedule in Part I.B of the Permit requires Respondent to achieve compliance with the final effluent limitations within three (3) years from the effective date of the

Permit. Respondent is also required to submit annual progress reports detailing the actions taken to achieve compliance with the final effluent limits for Fecal Coliform Bacteria (FCB), Total Phosphorus (TP) Total Residual Chlorine (TRC) and Nitrates + Nitrites. The final progress reports were to include a certification that the facility was in compliance with the final effluent limits for FCB, TP, TRC and Nitrates + Nitrites.

11. On February 11, 2022, and February 20, 2023, Respondent submitted progress reports detailing the actions taken to achieve compliance with the final effluent limits for FCB, TP, TRC and Nitrates + Nitrites.

12. On April 30, 2024, Respondent submitted a Corrective Action Plan (CAP) to DEQ detailing the corrective actions Respondent would be taking to meet the final effluent limits for FCB, TP, TRC and Nitrates + Nitrites. The CAP had a final compliance date of August 31, 2026.

13. Respondent's failure to achieve compliance with the final effluent limits for FCB, TP, TRC and Nitrates + Nitrites by February 1, 2024, is a violation of Part I. B of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

DMR Violations

14. On June 10, 2024, 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.A of the Permit from February 1, 2024, through April 30, 2024:

- a. Two (2) violations of Total Residual Chlorine;
- b. One (1) violation of Fecal Coliform Bacteria; and
- c. One (1) violation of Total Phosphorus.

16. Each of the four (4) discharge limitation violations listed in Paragraph 15 above constitutes a separate permit violation for a total of four (4) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

SSO Violations

17. DEQ conducted a review of the Sanitary Sewer Overflows (SSOs) reported by Respondent in accordance with the Permit for the period of May 1, 2019, through June 10, 2024. The review revealed that Respondent reported forty (40) SSOs totaling over 1,000,000 gallons. Respondent is permitted to discharge treated municipal wastewater from its permitted outfall. Respondent is not permitted to discharge untreated wastewater from its collection system. Each SSO constituted an unpermitted discharge. Each unpermitted discharge violated Ark. Code Ann. § 8-4-217(b)(1)(E) and therefore violated Ark. Code Ann. § 8-4-217(a)(3).

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. 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 Evaluation Survey (SSES), to find and fix infiltration and inflow (I&I) into sewer lines, developed by a Professional Engineer licensed in the state of Arkansas. The SSES shall include, at minimum, flow monitoring, rain monitoring, an estimate of available sewer capacity, identification of sources of I&I, an estimation of I&I, and a plan and milestone schedule for reducing I&I with a date of final compliance no later than August 31, 2026. The SSES shall detail the methods and best available

technologies that will be used to correct the violations listed in Findings of Fact Paragraph 17 and prevent future violations. Upon review and approval by DEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date. The 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 permitted effluent limits set forth in Part I.A of the Permit and elimination of SSOs. Within thirty (30) calendar days of the final compliance date in the approved CAP, Respondent shall submit a final compliance report that includes a certification of compliance, signed and stamped by a Professional Engineer licensed in the state of Arkansas.

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 Six Hundred Dollars (\$5600.00) of which Two Thousand Eight Hundred Dollars (\$2800.00) shall be conditionally SUSPENDED by DEQ. The allowance of a conditional suspension is based up on DEQ's primary goal of regulatory compliance and Respondent's efforts to take appropriate corrective actions to achieve compliance with the Permit. If Respondent fully complies with this Order, the suspended civil penalty of Two Thousand Eight Hundred Dollars (\$2800.00) 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 civil penalty in the amount of Two Thousand Eight Hundred Dollars (\$2800.00) 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) 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.

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 4 DAY OF December BMT, 2024.

Bailey Taylor
BAILEY TAYLOR
CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Jasper

BY: Michael Thomas
(Signature)

Michael Thomas
(Typed or printed name)

TITLE: Mayor

DATE: 11/28/2024

RESOLUTION NO. 2024-6

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

WHEREAS:

1. The City of Jasper, Arkansas ("City") has received a Consent Administrative Order ("CAO") from the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ).
2. The City of Jasper is required to comply with a corrective action plan (CAP) to address the violations and achieve compliance by August 31, 2026.
3. The City acknowledges the importance of protecting public health and the environment, and is committed to fully complying with the requirements set forth by the DEQ in the CAO.

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

Section 1. Consent to Administrative Order

The City officially acknowledges receipt of the CAO from the DEQ and consents to all terms and conditions stipulated therein.

Section 2. Authorization to Comply

The City hereby authorizes its Mayor and designated officials to take all necessary actions to comply with the requirements of the CAO. This includes, but is not limited to, the planning, funding, and execution of all remedial measures outlined by the DEQ.

Section 3. Funding Allocation

The City shall allocate the necessary funds from its budget to ensure full compliance with the CAO. Any additional funding required shall be pursued through grants, loans, or other financial mechanisms as deemed appropriate by the City Council.

Section 4. Reporting and Documentation

The City commits to maintaining accurate records of all actions taken to comply with the CAO. Regular reports shall be submitted to the DEQ as mandated, and all related documentation shall be made publicly available to ensure transparency and accountability.

Section 5. Execution of Documents

The Mayor is hereby authorized to execute any and all documents necessary to effectuate the intent and purposes of this Resolution and to further the goals and intentions outlined herein.

Section 6. Effective Date

This Resolution shall take effect immediately upon its passage and approval.

PASSED AND ADOPTED THIS 26 DAY OF July, 2024.
CITY OF JASPER, ARKANSAS

By: Mike Thomas
Honorable Mike Thomas, Mayor

ATTEST: Janet Clark
Janet Clark, City Clerk