ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Cabot Water and Wastewater Commission Cabot Wastewater Treatment Facility P.O. Box 1287 Cabot, AR 72023

LIS No. 25- () 2 7 Permit Number: AR0021661

AFIN 43-00059

**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 the rules issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of Cabot Water and Wastewater Commission - Cabot 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

 Respondent operates a major municipal wastewater treatment plant ("Facility") located at 76 Marshall Lane, Cabot, Lonoke County, Arkansas.

2. Respondent discharges treated wastewater to an unnamed tributary of Bayou Two Prairie, thence to Bayou Two Prairie, thence to Bayou Meto, and thence to the Arkansas River in Segment 3B of the Arkansas River Basin.

 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."

## Late Permit Renewal Application

- 9. DEQ issued NPDES Permit Number AR0021661 ("Permit") to Respondent on December 12, 2019. The Permit became effective on January 1, 2020, and expires on December 31, 2024.
- 10. Part III.D.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, December 31, 2024.
- 12. On December 29, 2023, and March 29, 2024, DEQ notified Respondent that the Permit would expire on December 31, 2024, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than July 4, 2024.
- 13. Respondent submitted a Permit renewal application to DEQ on August 30, 2024, and on September 10, 2024, DEQ notified Respondent that the application was determined to be administratively complete on August 30, 2024.
- 14. On January 27, 2025, Respondent informed DEQ that Respondent hired a private laboratory in May 2024 to perform water sample collection and analysis on Effluent and Influent water samples during the month of June. The private laboratory failed to collect influent samples which delayed influent sample results until July. When the test results were submitted, Respondent requested the laboratory reports to be reprinted in August to reflect the Minimum Detection Limits (MDL) as well as EPA Method used. The sample collection dates, and report dates reflect the delay on influent samples. Respondent claims the delay associated with the private laboratory caused the Permit renewal application to be submitted late.
- 15. The complete Permit renewal application was not received by July 4, 2024. Failure to submit the complete Permit renewal application by July 4, 2024, is a violation of Part III.D.10 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

## SSO Violations

16. On October 15, 2024, DEQ conducted a review of the Sanitary Sewer Overflow (SSOs) reported by Respondent in accordance with the Permit for the period of August 1, 2021, through October 15, 2024. The review revealed that Respondent reported thirty-five (35) SSOs totaling

over 12,000 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).

17. On January 27, 2025, Respondent requested the following to be included in the Order:

Respondent provided information establishing that approximately half of the thirty-five (35) SSOs identified were caused by the installation of fiber optic cable by third parties within the City of Cabot. Said SSOs occurred when contractors using directional boring equipment drilled through water and sewer lines due to no fault of Respondent.

Additionally, Respondent requested to use its Capital Improvement Plan to address SSOs instead of a Sewer System Evaluation Study (SSES).

## ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

- 1. Respondent shall comply with the existing Permit until either the effective date of the permit renewal or the effective date of the permit termination.
- 2. Respondent currently has developed a Capital Improvement Plan, which is attached to this Order and budgets annually to replace sewer collection mains. Respondent must continue to follow this Plan.
  - a. The Capital Improvement Plan must be evaluated annually to determine high-priority projects.
- 3. Respondent shall submit annual progress reports detailing the progress that has been made towards eliminating SSOs including the updated priority project list for the next year with a milestone schedule for completion of the priority projects. The annual report shall be submitted to DEO by February 15 of each calendar year until this Order is closed.

4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Two Thousand Two Hundred Dollars (\$2200.00). Payment 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:

Division of Environmental Quality
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, provided that Respondent requests such an extension in writing and provided that 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. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. 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 APC&EC initiative or in the event a petition to set aside this Order is granted by the APC&EC.

- 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 Cabot Water and Wastewater Commission of Respondent in a duly convened meeting with a quorum present. See copy of [meeting minutes or resolution] attached as Exhibit A.
- 12. The Cabot Water and Wastewater Commission of Respondent has authorized the General Manager to sign this Order on behalf of Respondent. See Exhibit A.

13. The Caoot water and wastewater Commission of Respond	ent r	ias a	utnorize	ea the c	Jenera.
Manager to expend funds for compliance activities required by this	Orde	r inc	luding l	out not	limited
to the payment of a civil penalty as set forth in this Order. See Exhi	bit A	<b>A</b> .			
so ordered this 3 day of Mann April					, 2025.
BAILEY TAYLOR, CHIEF ADMINISTRATOR OF ENVIRONM ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT	ENT	`AN	D DEQ	DIRE	CTOR
APPROVED AS TO FORM AND CONTENT:					
Cabot Water and Wastewater Commission Cabot Wastewater Treatment Facility					
BY:					
(Signature)					
Tim Joyner (Typed or printed name)	-				
(Typed of printed name)	<b>!</b> •				
TITLE: General Manager					
DATE: March 28, 2025				<u> </u>	¥
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## RESOLUTION NO. 1 of 2025

A RESOLUTION AUTHORIZING THE CABOT WATER AND WASTEWATER COMMISSION TO ENTER INTO A CONSENT ADMINISTRATIVE ORDER WITH THE ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY (DEQ)

WHEREAS, it is in the Utility'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 General Manager and Commission Chairman or other designated person, working with a Professional Engineer, have in place a plan of action to address the issues listed in the proposed Consent Administrative Order.

NOW, THEREFORE, BE IT RESOLVED BY THE CABOT WATER AND WASTEWATER COMMISSION:

- The proposed Consent Administrative Order has been reviewed and approved by the Cabot Water and Wastewater Commission in a duly convened meeting with a quorum present.
- 2. The Cabot Water and Wastewater Commission authorizes the General Manager to sign the proposed Consent Administrative Order.
- 3. The Cabot Water and Wastewater Commission authorizes the General Manager 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 Adopted on thi

