

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Pinewood Wastewater, LLC
12100 Cave Creek Road
Bryant, AR 72089

LIS No. 25- 028
Permit No. AR0050539
AFIN 63-00565

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 Pinewood Wastewater, LLC (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 wastewater treatment facility ("facility") located on Tatumville Trail, Alexander, Saline County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary of Panther Creek, thence to Panther Creek, thence to Fourche Creek, 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 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 AR0050539 ("Permit") to Respondent on December 17, 2018. The Permit became effective on February 1, 2019, and expired on January 31, 2024.

10. On May 4, 2023, DEQ received a Permit renewal application from Respondent, with additional information received on May 15, 2023, and May 31, 2023. The Permit renewal application was deemed complete on June 7, 2023, and Respondent's coverage was administratively continued pursuant to APC&EC Rule 6.201, now codified at 8 CAR 25-201.

11. On October 2, 2023, DEQ performed a permit renewal compliance review of items submitted to DEQ from September 30, 2020, through August 31, 2023..
12. On October 9, 2023, DEQ and Respondent held a meeting to discuss the findings on the compliance review. DEQ requested that Respondent submit a Corrective Action Plan (CAP) with a milestone schedule and final date of compliance.
13. On November 15, 2023, Respondent submitted a CAP to DEQ.
14. On February 1, 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 January 1, 2021, through November 30, 2023:
 - a. Twelve (12) violations of Carbonaceous Biochemical Oxygen Demand (CBOD₅);
 - b. Three (3) violations of Fecal Coliform Bacteria (FCB); and
 - c. Three (3) violations of Total Suspended Solids (TSS).
16. Each of the eighteen (18) discharge limitation violations listed in Paragraph 15 above constitutes a separate permit violation for a total of eighteen (18) separate violations of Ark. Code Ann. § 8-4-217(a)(3).
17. The review of the DMRs also revealed that Respondent failed to conduct analysis for the monitoring periods:
 - a. March 2022: TSS, Ammonia Nitrogen, FCB, and CBOD₅ and
 - b. May 2023: TSS.

Failure to monitor the effluent in accordance with the requirements set forth in Part I.A of the Permit is a violation of Part I.A of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

18. The review of the DMRs further revealed that Respondent failed to submit DMRs by the due date for the following three (3) monitoring periods:

- a. 2021: August;
- b. 2022: August; and
- c. 2023: April.

Failure to submit DMRs with the monitoring results obtained during the monitoring period no later than the 25th of the month following the completed monitoring period is a violation of Part III.C.5 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

19. On February 13, 2024, DEQ notified Respondent that the CAP submitted on November 15, 2023, was adequate.

20. On March 13, 2024, Respondent submitted a progress report indicating that most of equipment replacement corrective actions had been completed.

21. On January 13, 2025, DEQ conducted a review of certified DMRs submitted by Respondent in accordance with the Permit. The review revealed three (3) violations of the permitted effluent discharge limits for FCB detailed in Part I.A of the Permit from December 31, 2023, through November 30, 2024.

22. Each of the three (3) discharge limitation violations listed in Paragraph 21 above constitutes a separate permit violation for a total of three (3) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

23. The review of the DMRs further revealed that Respondent failed to submit DMRs by the due date for the following nine (9) monitoring periods:

- a. 2023: December; and
- b. 2024: March, April, June, July, August, September, October, and November.

Failure to submit DMRs with the monitoring results obtained during the monitoring period no later than the 25th of the month following the completed monitoring period is a violation of Part III.C.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. Respondent shall comply with the terms, milestone schedule, and final compliance date contained in the approved CAP. The milestone schedule and final compliance date of November 30, 2026, 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 completion of the remaining corrective actions and compliance with the permitted effluent limits set forth in Part I.A of the Permit. Respondent shall submit a final compliance report that includes a certification of compliance within thirty (30) calendar days of the final compliance date of November 30, 2026.
3. Respondent shall submit all DMRs in accordance with Part I.A and Part III.C.5 of the Permit.
4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Seven Thousand Two Hundred Dollars (\$7200.00)¹,

¹ Ten percent (10%) of the total penalty will be paid to DEQ as reimbursement for administrative costs associated with the Order.

or one-half of the full civil penalty of Three Thousand Six Hundred Dollars (\$3600.00) if this Order is signed and returned to the Office of Water Quality Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of receipt of this Order. Even if the conditions for receiving a reduced penalty of Three Thousand Six Hundred Dollars (\$3600.00) have been met, failure to otherwise comply with this Order will result in the penalty reverting to the full civil penalty of Seven Thousand Two Hundred Dollars (\$7200.00) and shall become due immediately and payable to DEQ. 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:

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 the 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, now codified at 8 CAR § 11-101, 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, codified at 8 CAR 11-101, 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. By virtue of the signature appearing below, the individual represents that he or she is a Managing Member of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein as attested by the secretary of said entity. Execution of this Order by an individual other than a Managing Member 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 9 DAY OF April, 2025.

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

APPROVED AS TO FORM AND CONTENT:

Pinewood Estates, LLC

BY: [Signature]

(Signature)

Tait Arnold

(Typed or printed name)

TITLE: Owner

DATE: 4/8/2025