

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

St. Joseph's Utility Operating Company, LLC-
Cherokee Village WWTF
1630 Des Peres Rd, Suite 140
Des Peres, MO 63131

LIS No. 25- 042
Permit No. AR0034282
AFIN 68-00029

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 rules¹ issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of St. Joseph's Utility Operating Company LLC-Cherokee Village WWTF (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 non-municipal wastewater treatment facility ("facility") located at 53 Griffin Road, Cherokee Village, Sharp County, Arkansas.
2. Respondent discharges treated wastewater to the South Fork Spring River, thence to the Spring River in Segment 4H of the White River Basin.

¹ Act 662 of the 2019 regular session of the General Assembly established the Code of Arkansas Rules. The rules promulgated by the Arkansas Pollution Control and Ecology Commission are now codified in Title 8 of the Code of Arkansas Rules.

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 AR0034282 ("Permit") to Respondent on November 17, 2020. The Permit became effective on December 1, 2020, and expires on November 30, 2025.

DMR Violations

10. On April 11, 2024, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

11. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I.A of the Permit from March 1, 2021, through February 28, 2025:

- a. Four (4) violations of Ammonia Nitrogen;
- b. Five (5) violations of Fecal Coliform Bacteria (FCB);
- c. Two (2) violations of Total Suspended Solids; and
- d. Two (2) violations of Carbonaceous Biochemical Oxygen Demand.

12. Each of the thirteen (13) discharge limitation violations listed in Paragraph 11 above constitutes a separate permit violation for a total of thirteen (13) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

13. The review of the DMRs revealed that Respondent failed to submit Non-Compliance Reports (NCRs) for effluent violations reported during the following four (4) monitoring periods:

- a. 2021: March, July, September;
- b. 2023: January.

Failure to submit an NCR for each effluent violation is a violation of Part III.D.7 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

Failure to Pay Annual Permit Fees

14. DEQ is authorized by Ark. Code Ann. § 8-1-103 to charge fees for issuance, modification, and annual review of permits. APC&EC Rule 9.301(D), codified in 8 CAR § 12-201(d)(1), provides:

A permitted facility failing or refusing to pay the annual fee in a timely manner shall be subject to a late payment charge as established in this part.

15. On February 15, 2023, DEQ issued invoice number PDS-198470 for annual fees for the Permit with the amount due of One Thousand One Hundred Ten Dollars (\$1110.00). Respondent

failed to make payment in a timely manner, and late charges of One Hundred Eleven Dollars (\$111.00) accrued.

16. As of this date, Respondent failed to pay the invoice or the late fees. The total amount due and owing for invoice PDS-198470 is One Thousand Two Hundred Twenty-one Dollars (\$1221.00). Failure to pay annual fees, including late fees, is a violation of Part III.A.11 of the Permit and APC&EC Rule 9.301(C), codified in 8 CAR § 12-201(c)(1) and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

Failure to Submit Permit Schedule Report

17. Per the requirements of Part I.B of the Permit, Respondent is required 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) and Nitrates + Nitrites. The final progress report was to include a certification that the facility in compliance with the final effluent limits for FCB and Nitrates + Nitrites.

18. On February 11, 2022, and November 28, 2022, Respondent submitted progress reports detailing the actions taken to achieve compliance with the final effluent limits for FCB and Nitrates + Nitrites.

19. On March 28, 2024, Respondent submitted a letter to DEQ stating the facility was not in compliance with the final effluent limits for Nitrates + Nitrites.

20. Failure to certify compliance with the final effluent limits for Nitrates + Nitrites by November 30, 2023, is a violation of Part I.B 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. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to DEQ, for review and approval, a comprehensive Corrective Action Plan (CAP) developed by a Professional Engineer licensed in the state of Arkansas. The CAP shall include, at minimum, the methods and best available technologies that will be used to correct the violations listed in Findings of Fact and prevent future violations. The CAP shall also identify a system that will be implemented to ensure that Respondent meets all reporting requirements set forth in the Permit. The CAP shall include a reasonable milestone schedule with a date of final compliance no later than December 31, 2026. Upon review and approval by DEQ, 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. 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. Within thirty (30) calendar days of the final compliance date in the approved CAP or by December 31, 2026, whichever occurs first, 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.

3. Within thirty (30) calendar days of the effective date of this Order, Respondent shall develop and implement a plan for completing and submitting NCRs. The plan must be signed by the Responsible Official and Cognizant Official and include the following information:

- a. An acknowledgement of when NCRs are required; and
- b. Who will be submitting the NCRs;

and be submitted to DEQ. Respondent shall submit NCRs on the form at <https://www.adeg.state.ar.us/water/enforcement/pdfs/ncr-form.pdf> completed in accordance with Part III.D.7 of the Permit. Respondent shall submit a copy of such NCRs to the Enforcement Branch of the DEQ Office of Water Quality via email at ee.water.enforcement.report@arkansas.gov.

4. Within thirty (30) calendar days of the effective date of this Order, Respondent shall pay One Thousand Two Hundred Twenty-one dollars (\$1221.00) for the annual and past due fees associated with invoice PDS-198470. The total amount shall be made payable to the Division of Environmental Quality and mailed to:

DEQ, Fiscal Division
PDS-198470
5301 Northshore Drive
North Little Rock, AR 72118-5317

5. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Seven Thousand Seven Hundred Dollars (\$7700.00)², or one-half of the full civil penalty of Three Thousand Eight Hundred and Fifty dollars (\$3850.00) 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. 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 address provided above. 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.

² Ten percent (10%) of the total penalty will be paid to DEQ as reimbursement for administrative costs associated with the Order.

6. 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.

7. 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.

8. 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.

9. 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.

10. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8, codified at 8 CAR Part 11, 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 Part 11, 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.

11. 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.

12. 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 15 DAY OF May, 2025.

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

APPROVED AS TO FORM AND CONTENT:

St. Joseph's Utility Operating Company, LLC - Cherokee Village WWTF

BY: 
(Signature)

Josiah Cox
(Typed or printed name)

TITLE: President / CEO

DATE: 4/15/2025