

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Atkins
P.O. Box 128
Atkins, AR 72823

LIS No. 25- 043

City of Atkins - North Wastewater Treatment Facility

Permit No. AR0034665
AFIN 58-00043

and

City of Atkins - South Wastewater Treatment Plant

Permit No. AR0034673
AFIN 58-00878

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 Atkins (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 two minor municipal wastewater treatment facilities in Atkins, Pope County, Arkansas.
 - a. The North Wastewater Treatment Facility ("North Facility") is located at 1309 N.E. 4th Street.

b. The South Wastewater Treatment Plant ("South Facility") is located on SE 15th Street.

2. Respondent discharges treated wastewater from the North Facility to the Arkansas River in Segment 3F of the Arkansas River Basin and from the South Facility to Horsehead Branch, thence to Galla Creek, thence into the Arkansas River in Segment 3F 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 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. On August 22, 2019, DEQ and Respondent executed Consent Administrative Order (CAO) LIS 19-074 to address Sanitary Sewer Overflows (SSO). CAO LIS 19-074 became effective on October 10, 2019.
10. On June 26, 2020, DEQ and Respondent executed Amended CAO LIS 19-074-001, to extend the timeframe to submit the Sanitary Sewer Survey and Evaluation Study (SSSES) and Sanitary Sewer Remediation Plan (SSRP).
11. On October 13, 2023, Respondent notified DEQ that the SSSES and SSRP were completed. Respondent stated they would be working on projects that contribute the most to the elimination of Inflow and Infiltration (I&I) in the collection system.
12. On April 12, 2024, Respondent submitted a revised Milestone Schedule with a final compliance date of December 29, 2029.
13. On July 18, 2024, Respondent reported that the plan going forward is to allocate the remaining funds towards those ongoing efforts in reducing and managing SSOs and I&I. This will include continuing to identify potential areas of rehabilitation.
14. On September 10, 2024, DEQ and the Respondent met to discuss the effluent violations and SSOs.
15. On September 30, 2024, Respondent submitted a revised milestone schedule that includes SSO elimination and pond sludge removal, letters to and from Twin River Foods discussing the BOD discharge overages, and maps of the manholes.

North Wastewater Treatment Facility

16. DEQ issued NPDES Permit Number AR0034665 ("North Permit") to Respondent on July 25, 2018. The North Permit became effective on August 1, 2018, and expired on July 31, 2023. The North Permit was administratively continued pursuant to APC&EC Rule 6.201 until DEQ

issued the renewal North Permit on March 15, 2024, with an effective date of April 1, 2024, and an expiration date of March 31, 2029.

17. On December 28, 2023, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the North Permit.

18. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I. A of the North Permit from December 1, 2020, through November 30, 2023:

- a. Ten (10) violations of Biochemical Oxygen Demand;
- b. Three (3) violations of Fecal Coliform Bacteria; and
- c. Two (2) violations of Dissolved Oxygen.

19. Each of the fifteen (15) discharge limitation violations listed in Paragraph 18 above constitutes a separate permit violation for a total of fifteen (15) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

20. DEQ conducted a review of the SSOs reported by Respondent in accordance with the North Permit for the period of April 18, 2023, through November 30, 2023. The review revealed that Respondent reported six (6) SSOs totaling over 2000 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 Part I. A of the North Permit and Ark. Code Ann. § 8-4-217(b)(1)(E) and therefore violated Ark. Code Ann. § 8-4-217(a)(3).

21. On July 16, 2024, Respondent reported the contract engineers went to perform a capacity evaluation of an unsatisfactory lift station used for conveyance to the North WWTP, with some adjustments, this lift station it is now performing well. This effort was aimed at mitigating SSOs.

22. On February 19, 2025, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the North Permit. The review revealed nine (9) violations for Biochemical Oxygen Demand of the permitted effluent discharge limits detailed in Part I.A of the Permit from December 1, 2023, through January 31, 2025.

23. Each of the nine (9) discharge limitation violations listed in Paragraph 22 above constitutes a separate permit violation for a total of nine (9) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

24. DEQ conducted a review of the SSOs reported by Respondent in accordance with the North Permit for the period of December 1, 2023, through January 31, 2025. The review revealed that Respondent reported sixteen (16) SSOs totaling over 264,000 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 Part I. A of the North Permit and Ark. Code Ann. § 8-4-217(b)(1)(E) and therefore violated Ark. Code Ann. § 8-4-217(a)(3).

South Wastewater Treatment Plant

25. DEQ issued NPDES Permit Number AR0034673 ("South Permit") to Respondent on September 19, 2017. The South Permit became effective on October 1, 2017, was modified on November 1, 2018, and expired on September 30, 2022. The South Permit was administratively continued pursuant to APC&EC Rule 6.201 until DEQ issued the renewal South Permit on February 15, 2023, with an effective date of March 1, 2023, and an expiration date of February 29, 2028.

26. On December 28, 2023, DEQ conducted a review of certified DMRs submitted by Respondent in accordance with the South Permit.

27. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I. A of the South Permit December 1, 2020, through November 30, 2023:

- a. Seven (7) violations of Dissolved Oxygen;
- b. Four (4) violations of Fecal Coliform Bacteria;
- c. Three (3) violations of Total Suspended Solids; and
- d. One (1) violation of pH.

28. Each of the fifteen (15) discharge limitation violations listed in Paragraph 27 above constitutes a separate permit violation for a total of fifteen (15) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

29. On July 16, 2024, Respondent reported with ongoing efforts to rehab the collection system, the South Permit has not seen a reduction of influent volume. After hydrostatic flow measuring, it was discovered not all sources of I&I within the collection system had been located. This area will need to be televised for an exact determination of the issues. Once televising is complete a design and construction phase will be implemented to rehab the sanitary sewer line.

30. On February 19, 2025, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the South Permit. The review revealed seven (7) violations for Dissolved Oxygen of the permitted effluent discharge limits detailed in Part I.A of the Permit from December 1, 2023, through January 31, 2025.

31. Each of the seven (7) discharge limitation violations listed in Paragraph 30 above constitutes a separate permit violation for a total of seven (7) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

32. DEQ conducted a review of the SSOs reported by Respondent in accordance with the South Permit for the period of December 1, 2023, through January 31, 2025. The review revealed that Respondent reported two (2) SSOs totaling 7600 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 Part I. A of the North Permit and 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 continue to implement the SSRP submitted on August 31, 2020, to reduce and eliminate SSOs in the collection system in accordance with the revised milestone schedule submitted to DEQ on April 12, 2024, with a final compliance date of December 29, 2029.
2. On or before December 29, 2029, Respondent shall submit a certification of compliance from a Professional Engineer (P.E.) licensed in the state of Arkansas, stating that the corrective actions listed in the SSRP submitted on August 31, 2020, have been completed.
3. On the effective date of this Order, CAO LIS 19-074, as amended by CAO LIS 19-074-001, shall be closed.
4. 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 Paragraphs 18, 22, 27, and 30 to prevent future violations and include a reasonable milestone schedule with a date of final compliance no later than December 31, 2029. 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.

5. Respondent shall continue to 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 North and South Permits and the elimination of I&I in the collection system. Within thirty (30) calendar days of the final compliance date in the approved CAP or by December 31, 2029, 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, stating that Respondent is in compliance with all terms and conditions of the North and South Permits.

6. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Six Thousand, Four Hundred Dollars (\$6400.00)¹, or one-half of the full civil penalty of Three Thousand, Two Hundred Dollars (\$3200.00) 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, Two Hundred Dollars (\$3200.00) have been met, failure to otherwise comply with this Order will result in the penalty reverting to the full civil penalty of Six Thousand, Four Hundred Dollars (\$6400.00) 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

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

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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. This Order has been reviewed and approved by the City Council of Respondent in a duly convened meeting with a quorum present. See the copy of the [meeting minutes or resolution] attached as Exhibit A.

14. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to sign this Order on behalf of Respondent. See Exhibit A.

15. 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 15 DAY OF may, 2025.

Bailey Taylor
BAILEY M. TAYLOR, DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR
CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Atkins

BY: 
(Signature)

ROWDY SWEET
(Typed or printed name)

TITLE: MAYOR

DATE: 5/14/25

RESOLUTION NO. 2025- 7

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

WHEREAS, it is in the City'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 Mayor and Public Works Director or other designated person, working with a Professional Engineer, have developed a plan of action to address the issues listed in the proposed Consent Administrative Order.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ATKINS, ARKANSAS;

SECTION 1: The proposed Consent Administrative Order has been reviewed and approved by the City Council in a duly convened meeting with a quorum present.

SECTION 2: The City Council of the City of Atkins authorizes the Mayor to sign the proposed Consent Administrative Order.

SECTION 3: The City Council of the City of Atkins authorizes the Mayor and treasurer 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.

APPROVED and ADOPTED on this 13th day of May, 2025.



ROWDY SWEET, MAYOR
DATE SIGNED: 5-13-2025

ATTEST:



CITY CLERK

VOTES FOR: 6 VOTES AGAINST: 0
ABSTAIN: 0 PRESENT: 6 ABSENT: 0

