

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Big Land Investments, LLC  
The Bubble Barn  
1 Choctaw Center  
Cherokee Village, AR 72529

LIS No. ~~24~~-26-001  
Permit Number: AR0048798  
AFIN 03-00118

**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 Big Land Investments, LLC - The Bubble Barn (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 car wash and laundry mat ("Facility") located at 15 Wilderness Point, Henderson, Baxter County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary of Norfork Lake, thence to Norfork Lake, thence to the North Fork River, thence to the White River in Segment 4F 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(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 AR0048798 (“Permit”) to Henderson Car Wash and Laundromat on March 26, 2019, and became effective on May 1, 2019. On August 5, 2021, a permit transfer was requested. DEQ issued a minor permit modification on November 16, 2021, transferring the Permit to KMP Properties, LLC - The Bubble Barn. On September 20, 2022, a permit transfer was requested. DEQ issued a minor permit modification on November 2, 2022,

transferring the Permit to Big Land Investments, LLC - The Bubble Barn. The Permit expires on April 30, 2024.

#### Permit Renewal Application

10. Part III, Section D, Condition 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, April 30, 2024.

12. On May 1, 2023, and August 2, 2023, DEQ notified Respondent that the Permit would expire on April 30, 2024, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than November 2, 2023.

13. To date, Respondent has not submitted a complete permit renewal application.

14. The complete Permit renewal application was not received by November 2, 2023. Failure to submit the complete Permit renewal application by November 2, 2023, is a violation of Part III, Section D, Condition 10 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

#### Failure to Pay Annual Permit Fees

15. DEQ is authorized by Ark. Code Ann. § 8-1-103 to charge fees for the issuance, modification, and annual review of permits. APC&EC Rule 9.301(D) 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 these [rules]. Continued refusal to pay the required fees after a reasonable notice shall constitute grounds for legal action by the Division, which may result in revocation of the permit.

16. On June 8, 2023, DEQ issued invoice number PDS-199959 for annual fees for NPDES Permit Number AR0048798 with the amount due of Two Hundred Twenty-one Dollars (\$221.00). Respondent failed to make payment in a timely manner, and late charges of Twenty-two dollars and Ten cents (\$22.10) accrued.

17. As of this date, Respondent failed to pay the invoice or the late fees. The total amount due and owing for invoice PDS-199959 is Two Hundred Forty-three dollars and Ten cents (\$243.10). This failure is a violation of Part III, Section A, Condition 11 of the Permit and APC&EC Rule 9.301(D) 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. On or before the effective date of this Order, Respondent shall submit an administratively complete permit renewal application.
2. Respondent shall comply with the existing Permit until either the effective date of the permit renewal or the effective date of the permit termination.
3. Within thirty (30) calendar days of the effective date of this Order, Respondent shall pay Two Hundred Forty-Three Dollars and Ten Cents (\$243.10) for the past due annual and late fees associated with invoice PDS-199959. The total amount shall be made payable to the Division of Environmental Quality and mailed to:

DEQ, Fiscal Division  
PDS-199959  
5301 Northshore Drive  
North Little Rock, AR 72118-5317

4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of One Thousand Dollars (\$1000.00), of which Five Hundred Dollars (\$500.00) shall be conditionally SUSPENDED by DEQ. The allowance of a

conditional suspension is based upon 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 Five Hundred Dollars (\$500.00) 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 One Thousand Dollars (\$1000.00) shall be payable immediately to DEQ. Payment of the civil penalty in the amount of Five Hundred Dollars (\$500.00) 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:

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 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, 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 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.



SCANNED

DEC 16 2025

MAILROOM

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 5 DAY OF January, 2024.

Bailey Taylor  
BAILEY J. OSBORNE, DIVISION OF ENVIRONMENTAL QUALITY, DIRECTOR  
CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

Big Land Investments, LLC - The Bubble Barn

BY:

(Signature)

Eddie Ismail  
(Typed or printed name)

TITLE:

DATE: