

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City Corporation
Russellville Water and Sewer System
P.O. Box 3186
Russellville, AR 72811

LIS No. 22-088
Permit No. AR0021768
AFIN 58-00105

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 City Corporation Russellville Water and Sewer System (Respondent) and the Division of Environmental Quality¹ (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 municipal wastewater treatment facility (“facility”) located at 404 Jimmy Lile Road, Russellville, Pope County, Arkansas.
2. Respondent discharges treated wastewater to Whig Creek, thence to the Arkansas River in Segment 3F of the Arkansas River Basin.

¹ Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

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 AR0021768 (“Permit”) to Respondent on August 17, 2016. The Permit became effective on September 1, 2016, and expired on August 31, 2021.
10. On October 13, 2020, DEQ received an application for revocation and reissuance of the Permit from Respondent. The application was deemed complete on October 13, 2020, and Respondent’s coverage was administratively continued pursuant to APC&EC Rule 6.201.

11. On November 6, 2009, DEQ and Respondent entered into Consent Administrative Order LIS 09-146 (CAO LIS 09-146) for effluent violations and Sanitary Sewer Overflows (SSOs). The Order was amended by CAO LIS 09-146-001 on June 2, 2014, with a final compliance date of March 31, 2022.

12. Respondent has submitted annual reports since the execution of CAO LIS 09-146.

13. On February 23, 2021, and July 16, 2021, DEQ received a state construction permit application and plans and specifications to modify the wastewater treatment system. DEQ issued State Construction Permit Number AR0021768C (“State Construction Permit”) to Respondent on October 19, 2021. The Permit became effective on October 19, 2021, with the condition that construction must begin by October 19, 2022. The construction will include the following:

a. Decommissioning of:

- i. Existing primary clarification
- ii. Existing chlorine disinfection system and contact basins
- iii. Existing sulfur dioxide dechlorination system

b. Conversion of:

- i. Existing primary clarifier #3 into an anaerobic selector
- ii. Existing aerobic digesters to aerobic sludge holding tanks

c. Installation of:

- i. One (1) new aeration basin
- ii. New peracetic acid (PAA) disinfection system and contact basin

d. Replacement of:

- i. Existing aeration blowers and expansion of blower capacity
- ii. Corroded portions of existing secondary clarifier mechanical equipment

iii. Existing non-potable pump station

iv. Aerated sludge mixing system

e. Relocation of:

i. Final effluent sampling location

14. The existing treatment system consists of three (3) aerated flow equalization basins, bar screens, grit removal, three (3) primary clarifiers, three (3) extended aeration activated sludge basins, three (3) final clarifiers, two (2) chlorine contact basins, dechlorination, and aerobic digestion. The design flow will be changing from 7.3 MGD to 8.5 MGD.

15. On October 19, 2021, Respondent notified DEQ via email that construction at the facility has commenced.

16. On April 20, 2022, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

17. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from October 1, 2018, through March 31, 2022:

- a. Forty-one (41) violations of Ammonia Nitrogen;
- b. Forty (40) violations of Total Suspended Solids;
- c. Twenty-nine (29) violations of Carbonaceous Biochemical Oxygen Demand;
- d. Twenty-five (25) violations of Fecal Coliform Bacteria;
- e. Nine (9) violations of Dissolved Oxygen;
- f. Seven (7) violations of Total Recoverable Zinc;
- g. Five (5) violations of Total Recoverable Mercury;
- h. Five (5) violations of Total Residual Chlorine;

- i. Three (3) violations of pH; and
- j. Two (2) violations of Total Recoverable Copper.

18. Each of the 166 discharge limitation violations listed in Paragraph 17 above constitutes a separate permit violation for a total of 166 separate violations of Ark. Code Ann. § 8-4-217(a)(3).

19. The review of the DMRs revealed that Respondent has reported flows greater than the permitted design flow twenty-eight (28) months out of the thirty-nine (39) month review period.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Upon the effective date of this Order, CAO LIS 09-146, as amended by CAO LIS 09-146-001, shall be closed.
2. 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 the Findings of Fact and prevent future violations. The CAP shall also include a reasonable milestone schedule with a date of final compliance. Upon review and approval by DEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date contained the approved CAP. The milestone schedule and final compliance date shall be fully enforceable as terms of this Order.
3. 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 final permitted effluent limits set forth in Part I, Section A of the Permit.

4. On or before the effective date of this Order, Respondent shall submit an interim operating plan that describes, in detail, the operational measures that will be undertaken to maximize the removal efficiency of all pollutants covered by this Permit. Respondent shall implement the interim operating plan immediately upon its submittal to DEQ.

5. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Sixteen Thousand Dollars (\$16,000.00). 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 to the extent permitted by law.

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 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) 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.

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 an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this Order by an individual other than an Officer 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 23rd DAY OF AUGUST, 2022.



JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City Corporation Russellville Water and Sewer System

BY: 

(Signature)

STEVE MALLET, JR.

(Typed or printed name)

TITLE: CHIEF EXECUTIVE OFFICER

DATE: 8/11/2022