

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Paragould Light and Water Commission
d/b/a Paragould Light, Water & Cable
1901 Jones Road
Paragould, AR 72450

LIS No. 16- 075
Permit No. AR0033766
AFIN 28-00470

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

The issues herein having been settled by the agreement of the Paragould Light and Water Commission d/b/a Paragould Light, Water & Cable (Respondent) and the Arkansas Department of Environmental Quality (ADEQ or Department), 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 in Paragould, Greene County, Arkansas.
2. Respondent discharges treated wastewater to an unnamed tributary of Eight Mile Creek, thence to Eight Mile Creek, thence to the St. Francis River in Segment 5A of the St. Francis 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. ADEQ is authorized under the Arkansas Water and Air Pollution Control Act (the 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, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].

7. Ark. Code Ann. § 8-4-103(a)(1)(A) authorizes ADEQ 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 regulation or permit issued pursuant to the Act.

8. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

9. NPDES Permit Number AR0033766 (Permit), originally issued to the Respondent in 2004, was renewed on July 20, 2015. The Permit as renewed became effective on August 1 2015, and expires on July 31, 2020.

10. The Department sent warning letters to the respondent on May 7, 2013 and October 30, 2014. The letters referenced the Total Residual Chlorine (TRC) violations reported on Discharge Monitoring Reports (DMRs) and submitted by the Respondent.

11. Respondent subsequently responded to these violations by allocating the funds necessary to permit and install an ultraviolet disinfection system.

12. On December 10, 2015, State Construction Permit Number AR0033766C was issued to the Respondent. The State Construction Permit allowed for the removal of the facility's chlorine disinfection and dechlorination treatment systems and the addition of ultraviolet disinfection, intended to address the TRC violations.

13. On February 24, 2016, the Department conducted a review of certified Discharge Monitoring Reports submitted by the facility in accordance with the Permit.

14. 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 December 1, 2012 through March 31, 2016:

a. Ten (10) violations for TRC ; and

b. Five (5) violations for Carbonaceous Biochemical Oxygen Demand.

15. Each of the fifteen (15) discharge limitation violations listed in Paragraph 13 above constitutes a separate permit violation for a total of fifteen (15) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

16. On June 17, 2016, Respondent informed the ADEQ through e-mail that the system chlorination process was terminated and the ultraviolet disinfection system became operational on June 15, 2016.

ORDER AND AGREEMENT

WHEREFORE, Respondent, neither admitting nor denying the factual alleged allegations contained in this Order, and ADEQ do hereby agree and stipulate as follows:

1. On or before the effective date of this Order, Respondent shall submit to the Department a Corrective Action Report. The report shall detail steps taken to correct the effluent violations specified in Paragraph 14 of the Findings of Fact and confirm that the facility is in compliance with the permitted effluent limits referenced in Paragraph 14. The Report shall be signed and certified in accordance with Part III Section 11 Condition C of the Permit.
2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Two Thousand Four Hundred Dollars (\$2,400.00). Payment is due within thirty (30) calendar days of the effective date of this Order. Such payment of the penalty shall be made payable to the Arkansas Department of Environmental Quality, and mailed to the attention of:

Arkansas Department 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, ADEQ shall be entitled to attorneys' fees and costs of collection.

3. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If Respondent should fail to meet any such requirements or deadlines,

the Respondent consents and agrees to pay on demand to ADEQ 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 which may be available to ADEQ by reason of failure by Respondent to comply with the requirements of this Order.

4. If any event, including but not limited to an act of nature, occurs which 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 ADEQ, 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.

5. ADEQ 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 the

ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

6. All requirements by the Order and Agreement are subject to approval by ADEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by ADEQ, submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies. Failure to adequately respond to such Notice of Deficiency within the timeframe specified in writing by ADEQ constitutes a failure to meet the requirements established by this Order.

7. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Regulation No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. ADEQ retains the right to rescind this Order based upon the comments received within the thirty-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 Regulation No. 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.

8. Nothing in this Order shall be construed as a waiver by ADEQ 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 which is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for

obtaining any necessary permits.

9. The undersigned representative of the Respondent certifies that he or she is a Commissioner of the Respondent and thus authorized to execute this CAO and to legally bind the Respondent to its terms and conditions. Execution of this CAO by an individual other than a Commissioner 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 30th DAY OF September, 2016.

Becky W Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

PARAGOULD LIGHT AND WATER COMMISSION
d/b/a PARAGOULD LIGHT, WATER, & CABLE

BY: Darrell Phillips
(Signature)

Darrell Phillips
(Typed or printed name)

TITLE: General Manager

DATE: 9-12-2016