



**DIVISION OF  
ENVIRONMENTAL QUALITY**

Sarah Huckabee Sanders  
GOVERNOR

Shane E. Khoury  
SECRETARY

March 20, 2025

Email: [gabe.timby@denaliwater.com](mailto:gabe.timby@denaliwater.com)

Gabriel G. Timby, Sr. Director of Environmental Compliance  
Denali Water Solutions LLC  
3308 Bernice Ave.  
Russellville, AR 72802

**RE: Executed Consent Administrative Order LIS 25-017**

4741-WR-9, 17-00294

5335-WR-2, 17-01457

5297-WR-2, 24-00498

5257-WR-2, 17-01420

5094-WR-2, 66-01624

5333-WR-1, 66-01849

Dear Mr. Timby:

Enclosed is a fully executed copy of Consent Administrative Order (CAO) LIS 25-017. This CAO is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d). Public notice of this CAO will be published on or about March 23, 2025, and the CAO will become effective thirty (30) days following the publication date of the public notice, April 22, 2025.

Payment of the civil penalty of \$12,900.00, as agreed to in the Order and Agreement Section of CAO LIS 25-017 must be received by DEQ on or before May 22, 2025. You will not receive an invoice for civil penalties due.

To assist you with meeting the deliverable requirements of this CAO, DEQ has created a personalized compliance checklist for you enumerating each deliverable due to DEQ and the due date for each enumerated deliverable. Your personalized compliance checklist is enclosed with this letter.

Please refer to CAO LIS 25-017 in any written correspondence to DEQ. Should you have any questions, please feel free to contact me at 501-682-0699 or [tiana.toups@arkansas.gov](mailto:tiana.toups@arkansas.gov).

Sincerely,

A handwritten signature in cursive script that reads "Tiana Toups".

Tiana Toups  
Compliance Analyst, OWQ, DEQ

Cc: Brinkley Israel, Denali Water Solutions LLC, [brinkley.israel@denaliwater.com](mailto:brinkley.israel@denaliwater.com)  
Basil Hicks, General Counsel, E&E, [basil.hicks@arkansas.gov](mailto:basil.hicks@arkansas.gov)  
Richard Healey, Branch Manager, DEQ, [richard.healey@arkansas.gov](mailto:richard.healey@arkansas.gov)  
Alan Anderson, Enforcement Coordinator, DEQ, [alan.anderson@arkansas.gov](mailto:alan.anderson@arkansas.gov)

Enclosures      Executed CAO LIS 25-017  
                         Compliance Checklist

Permittee:	Denali Water Solutions LLC	CAO LIS #	<b>25-017</b>
Permit Number, AFIN:	4741-WR-9, 17-00294 5335-WR-2, 17-01457 5297-WR-2, 24-00498	5257-WR-2, 17-01420 5094-WR-2, 66-01624 5333-WR-1, 66-01849	
CAO Execution Date:	March 10, 2025		
Public Notice Date:	March 23, 2025		
Effective Date:	April 22, 2025		
Compliance Analyst:	Tiana Toups <a href="mailto:tiana.toups@arkansas.gov">tiana.toups@arkansas.gov</a> <a href="mailto:ee.water.enforcement.report@arkansas.gov">ee.water.enforcement.report@arkansas.gov</a>		

In accordance with the Consent Administrative Order (CAO) executed by Denali Water Solutions LLC and the Division of Environmental Quality (DEQ) on the above-referenced date, the following action items, itemized below, must be completed by the due dates set forth below in order to comply with the CAO.

No.	Action Items	Due Date	Date Completed
1.	Pay civil penalty	May 22, 2025	
2.	Submit the SEP proposal	May 22, 2025	
3.	Completion of the SEP	90 calendar days from DEQ's SEP approval letter	
4.	Submit documentation demonstrating that the SEP has been completed	30 calendar days of completion of the SEP	

Further, failure to comply with the CAO may result in the assessment of stipulated penalties as set forth in the Order and Agreement section of the CAO.

Please contact the above-named Compliance Analyst if you have any questions.

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Denali Water Solutions LLC  
3308 Bernice Avenue  
Russellville, AR 72802

LIS No. 25- 017  
Permit Numbers, AFINs  
4741-WR-9, 17-00294  
5257-WR-2, 17-01420  
5335-WR-2, 17-01457  
5094-WR-2, 66-01624  
5297-WR-2, 24-00498  
5333-WR-1, 66-01849

**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 the Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of Denali Water Solutions LLC (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 industrial land application sites ("Sites") located in the following counties in Arkansas: Crawford, Sebastian, and Franklin.
2. Respondent is regulated pursuant to the Arkansas Water and Air Pollution Control Act ("Act"), Ark. Code Ann. § 8-4-101 *et seq.*
3. DEQ is authorized under the Act to issue permits in the State of Arkansas for the operation of disposal systems or any part of them and to initiate an enforcement action for any violation of a permit issued pursuant to the Act.

4. 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].

5. 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.

6. 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.”

7. DEQ issued No-Discharge Permit Number 4741-WR-9 (“Permit 4741”) to Respondent on May 23, 2023, with an effective date of June 1, 2023, and an expiration date of May 31, 2028.

8. DEQ issued No-Discharge Permit Number 5257-WR-2 (“Permit 5257”) to Respondent on March 10, 2021, with an effective date of April 1, 2021, and an expiration date of March 31, 2026.

9. DEQ issued No-Discharge Permit Number 5335-WR-2 (“Permit 5335”) to Respondent on August 30, 2019, with an effective date of September 1, 2023, first and second modifications effective dates of February 1, 2020, and April 1, 2021, respectively, and an expiration date of August 31, 2024. Respondent submitted a timely renewal application and Permit 5335 is administratively continued until DEQ issues a renewal permit.

10. DEQ issued No-Discharge Permit Number 5094-WR-2 (“Permit 5094”) to Respondent on May 31, 2016, with an effective date of June 1, 2016, and an expiration date of May 31, 2021.

Respondent submitted a timely renewal application and Permit 5094 is administratively continued until DEQ issues a renewal permit.

11. DEQ issued No-Discharge Permit Number 5297-WR-2 ("Permit 5297") to Respondent on February 9, 2024, with an effective date of March 1, 2024, and an expiration date of February 28, 2029.

12. DEQ issued No-Discharge Permit Number 5333-WR-1 ("Permit 5333") to Respondent on September 27, 2019, with an effective date of October 1, 2019, and an expiration date of September 30, 2024. Respondent submitted a timely renewal application and Permit 5333 is administratively continued until DEQ issues a renewal permit.

13. On May 8, 2024, Respondent notified DEQ of its anticipated noncompliance of the six (6) permits listed above in accordance with Part III.20 of the referenced permits. Specifically, Respondent stated it anticipated noncompliance with the following conditions:

- a. Land application is prohibited when precipitation is imminent (greater than a 50% chance of precipitation predicted by the nearest National Weather Service station) within a 24-hour period. Part II.13 in Permits 5335, 5094, and 5333; Part II.15 in Permit 5297; and Part II.16 in Permits 4741 and 5257.
- b. The permittee shall maintain, at a minimum, a two (2) foot freeboard at all times on the storage lagoon. Part II.25 in Permit 5257.

14. On May 30, 2024, DEQ responded to Respondent's May 8, 2024 letter and informed Respondent that Part III.1 of the referenced permits included the permittee's duty to comply with all conditions of the permit. DEQ also required Respondent to begin submitting monthly reports identifying all permit violations that occurred for the referenced permits.

15. Respondent submitted monthly violation reports each month from May 2024 through October 2024. The table below summarizes the violations reported from May 2024 through October 2024. Each violation of the respective permits is a separate violation of Ark. Code Ann. § 8-4-217(a)(3).

Permit	Violation	Violation Description	Number of Occurrences	Number of Months with Violations
4741-WR-9	Part II.16	Land application when precipitation is imminent	7	2
5257-WR-2	Part II.16	Land application when precipitation is imminent	0	0
5257-WR-2	Part II.25	Failure to maintain minimum 2-foot freeboard	126	6
5335-WR-2	Part II.13	Land application when precipitation is imminent	0	0
5094-WR-2	Part II.13	Land application when precipitation is imminent	3	1
5297-WR-2	Part II.15	Land application when precipitation is imminent	0	0
5333-WR-1	Part II.13	Land application when precipitation is imminent	0	0

16. In the September Monthly Noncompliance Report, dated October 10, 2024, Respondent reported that as of the date of the report, October 10, 2024, the storage lagoon is below the required freeboard minimum of two (2) feet.

17. Respondent, without admitting or denying the truth or falsity of any of the above Findings of Fact, allegations, or issues currently in dispute, wishes to avoid the uncertainty of litigation. Respondent agrees to settle and resolve these allegations or issues by entering this Order.

#### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall comply with the terms and conditions of the Permits identified in this Order.

2. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Nineteen Thousand Eight Hundred Dollars (\$19,800.00.00), of which ten percent (10%) shall be paid as reimbursement to DEQ for administrative costs associated with the Order. From the civil penalty of Nineteen Thousand Eight Hundred Dollars (\$19,800.00.00), Respondent has requested to apply Six Thousand Nine Hundred Dollars (\$6,900.00) of that penalty to a Supplemental Environmental Project (SEP) to be approved by the Director as provided for in Paragraph 3 of the Order and Agreement. Payment in the amount of Twelve Thousand Nine Hundred Dollars (\$12,900.00) is due within thirty (30) calendar days of the effective date of this Order, and 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.

3. As part of the administrative civil penalty as set forth in Paragraph 2 of this Order, Respondent may fund a SEP totaling Six Thousand Nine Hundred Dollars (\$6,900.00) to be approved by the Director. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit the SEP proposal. Completion of the SEP shall be due within ninety (90) calendar days from DEQ's SEP approval letter, unless a different date is stated in the SEP approval letter or an extension is granted by the Director. Within thirty (30) calendar days of completion of the SEP, Respondent shall submit to DEQ documentation demonstrating that the SEP has been completed.

Respondent shall be obliged to pay the balance of Six Thousand Nine Hundred Dollars (\$6,900.00) that may be used for an approved SEP to DEQ as a civil penalty if Respondent fails to complete the SEP within the approved time frame or expenditures by Respondent in completing the SEP are less than the amount required by the approved SEP. Payment of this balance shall be due within thirty (30) days of the date that DEQ's written determination that a balance is due is provided to Respondent. Penalty payment shall be made payable to DEQ and mailed to the attention of Fiscal Division, Division of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317. 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.

4. 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.

5. 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.

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

7. 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.

8. 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.

9. 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.

10. 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 10 DAY OF March, 2025.

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

APPROVED AS TO FORM AND CONTENT:

Denali Water Solutions LLC

BY: Jimmy Mardis  
(Signature)

Jimmy Mardis  
(Typed or printed name)

TITLE: VP Environmental

DATE: 3/3/2025