

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**City of Eureka Springs Wastewater Treatment Plant
Carroll County, Arkansas**

**LIS NO. 07-100
AFIN 08-00036**

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "Order") is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended; Ark. Code Ann. §8-4-101 et seq.) and the regulations issued thereunder (hereinafter collectively referred to as "the Act").

Pursuant to the authority of Ark. Code Ann. §8-4-207(1)(B), the Director for the Arkansas Department of Environmental Quality (hereinafter ADEQ) is authorized to set schedules of compliance for facilities permitted under the Act necessary to assure compliance with both applicable state and federal effluent limitations, including, but not limited to, those mandated by the National Pollutant Discharge Elimination System Program (hereinafter "NPDES") under section 402 of the Federal Water Pollution Control Act, 33 U.S.C. 1342 as well as under sections 301, 318, and 405 of the Federal Water Pollution Control Act, 33 U.S.C. 1311, 33 U.S.C. 1328 and 33 U.S.C. 1345; and Arkansas Pollution Control and Ecology Commission Regulations 2, 6, 7 & 8.

The issues herein having been settled by the agreement of (hereinafter the "Permittee") and ADEQ, it is hereby agreed and stipulated that the following **FINDINGS OF FACT** and **ORDER AND AGREEMENT** be entered herein.

FINDINGS OF FACT

1. The City of Eureka Springs Wastewater Treatment Plant is located in Carroll County, Arkansas. The Permittee operates a wastewater treatment facility pursuant to National Pollutant Discharge Elimination System (NPDES) permit number AR0021865 (hereinafter "the permit").

2. The following effluent limitations are found necessary to achieve and maintain compliance with the terms and conditions of NPDES permit number AR0021865 for outfall number 001:

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		
	Monthly Avg.	Daily Max	Minimum	Monthly Avg.	7-Day Average
Flow	Report MGD	Report MGD	N/A	N/A	N/A
Carbonaceous Biochemical Oxygen Demand (CBOD5)	58.4	N/A	N/A	10	15
Total Suspended Solids (TSS)	87.6	N/A	N/A	15	23
Ammonia Nitrogen (NH3-N)					
(May-Oct)	14.6	N/A	N/A	2.5	3.8
(Nov-Apr)	29.2	N/A	N/A	5	7.5
Dissolved Oxygen (DO)	N/A	N/A	6.5	N/A	N/A
Fecal Coliform Bacteria (FCB)			(colonies/100ml)		
	N/A	N/A	N/A	200	400
Nitrate + Nitrite Nitrogen (NO3 + NO2 – N)	58.4	N/A	N/A	10	15
pH	N/A	N/A	6 S.U.	N/A	9 S.U.

3. Since January 1, 2003, the Permittee has reported the following violations of the effluent characteristic limits contained in Part I or the permit:

<u>DATE</u>	<u>PARAMETER</u>	<u>REPORTED</u>	<u>PERMITTED</u>
01/31/04	NO3+NO2-N (mo. avg. conc.)	11.5 mg/l	10 mg/l
02/29/04	NO3+NO2-N (mo. avg. conc.)	14 mg/l	10 mg/l
02/29/04	NO3+NO2-N (7-day avg. conc.)	15.1 mg/l	15 mg/l
03/31/04	NO3+NO2-N (mo. avg. conc.)	14.2 mg/l	10 mg/l
03/31/04	NO3+NO2-N (7-day avg. conc.)	17.2 mg/l	15 mg/l
04/30/04	NO3+NO2-N (mo. avg. conc.)	11.8 mg/l	10 mg/l
05/31/04	NH3-N (mo. avg. conc.)	3.4 mg/l	2.5 mg/l
05/31/04	NH3-N (7-day avg. conc.)	5.3 mg/l	3.8 mg/l
05/31/04	NO3+NO2-N (mo. avg. conc.)	11 mg/l	10 mg/l
05/31/04	NO3+NO2-N (7-day avg. conc.)	17 mg/l	15 mg/l
05/31/04	FCB (30-day geo. mean)	2100 col/100ml	200 col/100ml
05/31/04	FCB (7-day geo. mean)	3000 col/100ml	400 col/100ml
06/30/04	NH3-N (mo. avg. conc.)	2.99 mg/l	2.5 mg/l
07/31/04	TSS (mo. avg. conc.)	26 mg/l	15 mg/l
07/31/04	TSS (7-day avg. conc.)	30 mg/l	23 mg/l
07/31/04	NH3-N (mo. avg. conc.)	3.92 mg/l	2.5 mg/l
07/31/04	NH3-N (7-day avg. conc.)	4.36 mg/l	3.8 mg/l
07/31/04	FCB (30-day geo. mean)	2264 col/100ml	200 col/100ml
07/31/04	FCB (7-day geo. mean)	19300 col/100ml	400 col/100ml
08/31/04	TSS (mo. avg. conc.)	18.3 mg/l	15 mg/l
08/31/04	NH3-N (mo. avg. conc.)	3.17 mg/l	2.5 mg/l
10/31/05	NH3-N (mo. avg. conc.)	2.9 mg/l	2.5 mg/l
10/31/05	NH3-N (7-day avg. conc.)	3.9 mg/l	3.8 mg/l
03/31/06	DO (6.5 mg/l (inst. min.))	5.7 mg/l	6.5 mg/l
03/31/06	TSS (mo. avg. loading)	96.1 mg/l	87.6 mg/l
03/31/06	TSS (mo. avg. conc.)	43.8 mg/l	15 mg/l
03/31/06	TSS (7-day avg. conc.)	72.0 mg/l	23 mg/l
03/31/06	NH3-N (mo. avg. conc.)	7.7 mg/l	5 mg/l
03/31/06	NH3-N (7-day avg. conc.)	17.4 mg/l	7.5 mg/l
03/31/06	FCB (30-day geo. mean)	843 col/100ml	200 col/100ml
03/31/06	FCB (7-day geo. mean)	2000 col/100ml	400 col/100ml
03/31/06	CBOD5 (mo. avg. loading)	73.3 lbs/day	58.4 lbs/day
03/31/06	CBOD5 (mo. avg. conc.)	33.4 mg/l	10 mg/l
03/31/06	CBOD5 (7-day avg. conc.)	84.0 mg/l	15 mg/l
04/30/06	TSS (mo. avg. conc.)	28.4 mg/l	15 mg/l
04/30/06	TSS (7-day avg. conc.)	36.0 mg/l	23 mg/l
05/31/06	TSS (mo. avg. conc.)	18.5 mg/l	15 mg/l
05/31/06	TSS (7-day avg. conc.)	33.0 mg/l	23 mg/l
05/31/06	NH3-N (7-day avg. conc.)	4.1 mg/l	3.8 mg/l

<u>DATE</u>	<u>PARAMETER</u>	<u>REPORTED</u>	<u>PERMITTED</u>
09/30/06	NO3+NO2-N (mo. avg. conc.)	11.31 mg/l	10 mg/l
09/30/06	NO3+NO2-N (7-day avg. conc.)	18.11 mg/l	15 mg/l
10/31/06	NO3+NO2-N (mo. avg. conc.)	16.14 mg/l	10 mg/l
10/31/06	NO3+NO2-N (7-day avg. conc.)	19.43 mg/l	15 mg/l
04/30/07	TSS (mo. avg. loading)	207.9 mg/l	87.6 mg/l
04/30/07	TSS (mo. avg. conc.)	105.5 mg/l	15 mg/l
04/30/07	TSS (7-day avg. conc.)	146.8 mg/l	23 mg/l
04/30/07	NO3+NO2-N (mo. avg. conc.)	11.24 mg/l	10 mg/l
05/31/07	TSS (mo. avg. conc.)	20.8 mg/l	15 mg/l
05/30/07	TSS (7-day avg. conc.)	28.5 mg/l	23 mg/l
05/30/07	CBOD5 (7-day avg. conc.)	24.0 mg/l	15 mg/l

4. Since January 1, 2004, the Permittee has reported 72 sanitary sewer overflows (SSOs) or bypass events from the sewage collection system. A complete list of the SSOs is attached to this Order. Part II, Section D, paragraph 6 of the Permit requires any event which endangers health or the environment shall be orally reported to this Department 24 hours from the time the Permittee becomes aware of the circumstance. A written report of the event shall be provided within 5 days of the time the Permittee becomes aware of the circumstance. No reports have been received by this Department since January 13, 2007 (no SSOs, bypasses, or upsets). An anonymous memo sent to ADEQ dated April 5, 2007 indicated solids were being discharged from the wastewater treatment plant and washing down Leatherwood Creek. The memo was received by the ADEQ Water Division on April 10, 2007. A phone call made to the Superintendent of the wastewater treatment plant revealed the discharge of solids to the creek began on April 3, 2007. As of April 10, 2007, solids were still being discharged. No oral report was made to this Department regarding the event, and no written report was received. This is a violation of Part II, Section B, Paragraph 1(a), and Part II, Section D, Paragraph 6 of the Permit. On April 17, 2007, a phone call was made to the Superintendent requesting a written explanation of the event. A response dated April 23, 2007 was received by the Department on April 27, 2007. The response of April 23,

2007 reported inaccurate dates and descriptions of the events. On June 16, 2007, a correction statement was requested, and the corrected statement was faxed to the Department on June 18, 2007.

5. On April 24, 2007, a routine compliance inspection of the City of Eureka Springs wastewater treatment plant was conducted by an ADEQ inspector supervisor. The inspection revealed the following violations:

a. Samples collected of the plant effluent during the inspection revealed that the effluent dissolved oxygen was below the permit requirement of 6.5 mg/l instantaneous minimum. The grab sample collected at 10:01 A.M. was 4.07 mg/l, sample collected at 11:01 A.M. was 4.18 mg/l, and the sample collected at 12:01 P.M. was 4.20 mg/l. This is a violation of Part I, Section A (effluent limitations), of the permit.

b. Foam of a persistent nature was noted in the receiving stream which is a violation of Part I, Section A (the narrative standard) of the permit.

c. Evidence of bottom deposits of solids or sludge was noted in the receiving stream down stream of the outfall point. This is a violation of Part I, Section A (the narrative standard) of the permit.

d. At the time of the inspection, the operations and maintenance was found to be unsatisfactory. This is a violation of Part II, Section B, Paragraph 1(a) of the permit. Specifically, the inspector noted the Lakeside pretreatment unit which contains the new bar screen, grit unit, secondary screening and pre-aeration was down for repairs. A major leak at the center well of the biotower was also noted. The final filter and the post aeration unit were not in operation. The ultraviolet (UV) disinfection unit which was designed for 8 banks of UV lights only had 4 banks of UV lights in operation. The secondary clarifier was in poor operating condition, and was having settling problems. According to the plant

superintendent, the settling problem was due to the upset the plant experienced in March 2007. However, the facility did not comply with Part II, Section B, paragraph 5 (Upset Conditions) in order to demonstrate that an upset actually did occur, that the Permittee could identify the cause of the upset, that the plant was being properly operated at the time of the upset, and the Permittee mitigated the effects of the upset as required by Part II, Section B, paragraph 3 of the Permit.

e. Calibration checks are not being conducted and recorded on the effluent flow device to ensure that the meter is reading within +/- 10% accuracy. This is a violation of Part II, Section C, Paragraph 2 of the permit.

f. The time of sampling for pH and dissolved oxygen was not being documented. This is a violation of Part II, Section C, Paragraph 8(a) of the permit.

g. The time of calibration of pH and dissolved oxygen meters need to be recorded as part of the calibration records of these units. This is a violation of Part II, Section C, Paragraph 3 of the permit.

h. There is evidence that inflow/infiltration (I&I) in the collection system has resulted in sanitary sewer overflows and upset condition of the treatment plant.

6. Notice of the Inspection was sent to the Permittee on May 31, 2007, with a response requested by June 22, 2007. The response was received June 12, 2007. The response indicated violations 5a, 5b, 5c, 5f, and 5g above had been resolved. The Permittee indicated in the response that violations 5d and 5e above were not resolved due to expense and timing of the new wastewater treatment plant being completed. The response also indicated violation 5h above was addressed in an as-needed basis. During a previous site visit conducted on March 21, 2007, the Public Works Director indicated inflow/infiltration issues (violation 5h above) were not being adequately resolved.

7. A.C.A. §8-4-217(a)(2) states that it shall be unlawful to place or cause to be placed any sewage, industrial waste, or other wastes in a location where it is likely to cause pollution of any waters of this state; and A.C.A. §8-4-217(a)(3) states that it shall be unlawful for a person to violate any provision of a Permit issued under this chapter by ADEQ. Therefore, as a result of the foregoing violations committed by the Permittee, the following actions are proposed to be ordered herein pursuant to A.C.A §8-4-103(b).

ORDER AND AGREEMENT

Therefore, the parties do hereby stipulate and agree that:

1. Within thirty (30) days of the effective date of this Order, the Permittee shall submit to ADEQ, a comprehensive Corrective Action Report which shall detail the steps the Permittee took to achieve full compliance with the effluent characteristic limits of the permit.

2. If the Permittee determines that full compliance with the terms of the permit cannot be achieved within thirty (30) days of the effective date of this Order, the Permittee shall submit to ADEQ a comprehensive plan with milestone schedule in lieu of the Corrective Action Report required by Paragraph 1 above. The plan shall detail the steps the Permittee shall take to achieve compliance with the terms of the permit and to eliminate the effluent characteristics violations cited in paragraph 3 of the Findings of Fact and to prevent future violations. Upon approval by ADEQ, the submitted milestone schedule shall be incorporated into this Order by reference and shall be followed by the Permittee. Failure to comply with the schedule, as approved by ADEQ, shall be subject to the stipulated penalties contained in paragraph 10 below.

3. Within thirty (30) days of the effective date of this Order, the Permittee shall submit to ADEQ, a comprehensive Corrective Action Plan which shall detail the steps the Permittee shall take to eliminate peak flows caused by inflow and infiltration and to eliminate all sanitary sewer overflows. This plan shall at a minimum include the following items:

- a. The Permittee shall complete a comprehensive collection system evaluation within one (1) year of the effective date of this order. This comprehensive collection system evaluation shall identify all wastewater mains

and pumping stations that cannot carry peak hydraulic loads caused by inflow and infiltration. The evaluation shall also identify all pumping stations that do not have auxiliary power or sufficient storage as required by Part II, Section B, paragraph 7 of the permit and shall identify all pumping stations that do not have direct notification alarms.

b. The Permittee shall submit to the Department within fifteen (15) months of the effective date of this order a milestone schedule for the replacement and/or repair of all wastewater mains and pumping stations that cannot convey peak hydraulic loads as identified by the comprehensive collection system evaluation required in paragraph 3a of this section. This milestone schedule shall include dates for the installation of direct notification alarms and auxiliary power or storage capacity at deficient pumping stations identified during the collection system evaluation. Upon approval by ADEQ, the submitted milestone schedule shall be incorporated into this Order by reference and shall be followed by the Permittee. Failure to comply with the schedule, as approved by ADEQ, shall be subject to the stipulated penalties contained in paragraph 11 below.

4. Within ninety (90) days of the effective date of the CAO, the Permittee will establish and implement an overflow response plan which shall:

- a. Identify the individual(s) responsible for making the appropriate reports (24-hour notification and monthly tabular reports) to the Department,
- b. Ensure that collection system overflows are identified and responded to in a timely manner,
- c. Establish written procedures for cleaning up after sanitary sewer overflows, and

- d. Have provisions to notify the affected public of overflows in parks and other public areas where access is not restricted and a reasonable potential exists for exposure to bacteria and other disease causing agents.
5. Within one (1) year the Permittee shall establish and maintain a minimum inventory of spare parts necessary to make immediate repairs to the pump stations, wastewater lines, and manholes. The Permittee will submit this inventory list to the Department upon completion of the inventory.
6. The Permittee shall at least every two (2) years re-evaluate the wastewater collection system and make whatever changes are necessary to the corrective action plan and construction projects to ensure the Permittee meets the goal of elimination of collection system overflows and problems related to peak hydraulic loads.
7. The Permittee shall comply with all reporting requirements contained in the permit.
8. Upon the effective date of this Order, CAO LIS No. 00-201 and CAO LIS No. 00-201-01 are hereby closed and replaced with this Order.
9. In compromise and full settlement of the civil penalties for violations (specified in the Findings of Fact), the Permittee agrees to pay to ADEQ the total sum of Fifteen Thousand Dollars (\$15,000.00) as a voluntary civil penalty. The penalty shall be paid in twelve (12) installments. The first payment of One Thousand Two Hundred Fifty Dollars (\$1250.00) shall be made within thirty (30) days of the effective date of this Order. The remaining eleven (11) payments of One Thousand Two Hundred Fifty Dollars (\$1,250.00) shall be due by the 10th of each month following the first payment. Payment

of the penalty shall be made payable to the Arkansas Department of Environmental Quality and mailed to the attention of:

The Fiscal Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

10. All submittals required by this Order are subject to approval by ADEQ. In the event of any deficiency, the Permittee shall within fifteen (15) days of notification by ADEQ submit any additional information requested. Failure to adequately respond to the notice of deficiency within fifteen (15) days constitutes a failure to meet a deadline and is subject to the civil penalties established in paragraph 11 below. All written submittals required by this Order shall be signed in accordance with Part II, Section D, Paragraph 11 of the Permit and mailed to the attention of:

Arkansas Department of Environmental Quality
Water Division
Enforcement Section
5301 Northshore Drive
North Little Rock, AR 72118-5317

11. Failure to meet the requirements, effluent limits or construction deadlines of this Order or the approved schedules provided for herein constitutes a violation of said Order. If the Permittee should fail to meet any such requirements, effluent limits or deadlines, the Permittee consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

- | | |
|---|------------------|
| (a) First day through the tenth day: | \$100.00 per day |
| (b) Eleventh day through the twentieth day: | \$200.00 per day |
| (c) Twenty-first day through thirtieth day: | \$300.00 per day |
| (d) Each day beyond the thirtieth day: | \$500.00 per day |

These stipulated penalties for delays in performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of the Permittee's failure to comply with the requirements of this Order.

12. 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 the Permittee with the requirements or deadlines of this Order, the Permittee 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 the Permittee's milestone schedule. 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.

13. ADEQ may grant an extension of any provision of this Order, provided that the Permittee 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 the Permittee. 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 the Permittee and the length of the delay attributable to such circumstances shall rest with the Permittee. Failure to notify the ADEQ promptly, as provided in Paragraph 12 of this Section, shall be grounds for a denial of an extension.

14. This Order is subject to public review and comment in accordance with A.C.A. §8-4-103 (d) and Arkansas Pollution Control and Ecology Commission Regulation No. 8 and shall not be final until thirty (30) 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 with the terms of the permit shall be taken immediately.

15. As provided by Arkansas Pollution Control and Ecology Commission 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.

16. 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 the Permittee from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve the Permittee of its responsibilities for obtaining any necessary permits.

SO ORDERED THIS 4th DAY OF October, 2007.

Teresa Marks
Teresa Marks, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

BY: Dani D. Wilson
(Signature)

Dani D. Wilson
(Typed or printed name)

TITLE: Mayor - City of Eureka Springs

DATE: 9/20/07