

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**Wastewater Treatment Committee of
North Little Rock, Arkansas
P.O. Box 17898
North Little Rock, AR 72117-0898**

LIS No. 10-218

**Faulkner Lake WWTP
NPDES Permit No. AR0020303
AFIN 60-00274**

**Five Mile Creek WWTP
NPDES Permit No. AR0020320
AFIN 60-04317**

**White Oak Bayou WWTP
NPDES Permit No. AR0038288
AFIN 60-04318**

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "CAO") is issued pursuant to Ark. Code Ann. §8-1-202(b)(2)(B), which authorizes the Director of the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "Department") to initiate and settle administrative enforcement actions to compel compliance with laws, orders, and regulations charged to the responsibility of the Department, including but not limited to the Federal Water Pollution Control Act, 33 U.S.C §1311 et seq., and the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. §8-4-101 et seq., and all regulations issued thereunder. The Director shall also propose the assessment of civil penalties as provided by Ark. Code Ann. §8-4-103(c) and Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC") Regulation No. 7, Civil Penalties, and take all actions necessary to collect such penalties.

The issues herein having been settled by the agreement of the Wastewater Treatment Committee of North Little Rock Wastewater (hereinafter the Committee or 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. Committee is a committee established by North Little Rock Ordinance § 106-156 under the authority of Ark. Code Ann. § 14-235-206. Committee operates the wastewater treatment plants (hereinafter WWTPs) that serve the City of North Little Rock and a limited number of customers outside the city limits of North Little Rock in Pulaski County, Arkansas.

2. The WWTPs, a wastewater collection, and transmission system (WCTS) are operated pursuant to Arkansas NPDES Permits AR0020303, AR0020320, and AR0038288 ("the Permits") issued by ADEQ. The WCTS includes forty-three (43) pump stations.

3. The Permittee continues to experience dry weather and wet weather Sanitary sewer overflows (SSOs). There were a total of 284 SSOs between November 1, 2007 and October 31, 2010. SSOs violate Ark. Code Ann. §§8-4-217(a)(2) and (3). Each of the Permittee's facilities contributed to the SSO totals as follows:

A. The Faulkner Lake facility, Permit AR0020303, had 126 SSOs. There are approximately 334 miles of collection lines and 15 pump stations that discharge to this permitted facility;

B. The Five Mile Creek facility, Permit AR0020320, had 47 SSOs. There are

are approximately 210 miles of collection lines and 14 pump stations that discharge to this permitted facility;

C. The White Oak Bayou facility, Permit AR0038288, had 111 SSOs. There are approximately 120 miles of collection lines and 15 pump stations that discharge to this permitted facility.

4. Violation of the effluent characteristic limits in Part I, Section A of Permit AR0020303 for outfall number 001, as found in DMRs submitted by the Permittee to ADEQ since November 2007, are:

Date	Parameter	Reported	Permitted
01-31-2009	Fecal Coliform (30 day avg. #/100 MLS)	>16	1000
12-31-2009	Fecal Coliform (30 day avg. #/100 MLS)	>10	1000
12-31-2009	Fecal Coliform (7 day Avg. #/100 MLS)	>28	2000

5. Violations of the effluent characteristic limits in Part I, Section A of Permit AR0020320 for outfall number 001, as found in DMRs submitted by the Permittee to ADEQ since November 2007, are as follows:

Date	Parameter	Reported	Permitted
05-31-2009	BOD5 (Mo. Avg., lbs/day)	2013	1651
12-31-2009	BOD5 (7 Da. Avg., mg/l)	49.3	45

6. Violations of the effluent characteristic limits in Part I, Section A of Permit AR0038288 for outfall number 001, as found in Discharge Monitoring Reports ("DMRs") submitted by the Permittee to ADEQ since November 2007, are as follows:

Date	Parameter	Reported	Permitted
------	-----------	----------	-----------

04-30-2008	Chlorine, total residual (Inst. Max., mg/l)	0.58	0.1
05-31-2008	Chlorine, total residual (Inst. Max., mg/l)	0.26	0.1
06-30-2008	BOD5 (Mo. Avg., mg/l)	31.2	30
06-30-2008	Chlorine, total residual (Inst. Max., mg/l)	1.4	0.1
07-31-2008	BOD5 (Mo. Avg., mg/l)	30.2	30
07-31-2008	Chlorine, total residual (Inst. Max., mg/l)	1.13	1.0
08-31-2008	BOD5 (Mo. Avg., mg/l)	32.6	30
08-31-2008	BOD5 (7 Da. Avg., mg/l)	50.9	45
12-31-2008	BOD5 (Mo. Avg., mg/l)	34.7	30
12-31-2008	BOD5 (7 Da. Avg., mg/l)	54.7	45
04-30-2009	BOD5 (Mo. Avg., lb/day)	1265.9	1063.4
05-31-2009	BOD5 (Mo. Avg., lb/day)	1235.7	1063.4
11-30-2009	BOD5 (Mo. Avg., mg/l)	31.2	30
02-28-2010	BOD5 (Mo. Avg., lb/day)	1180.4	1063.4
03-31-2010	BOD5 (Mo. Avg., mg/l)	30.8	30
06-30-2010	BOD5 (Mo. Avg., mg/l)	31	30

7. The effluent violations listed in paragraphs 4, 5, and 6 above are mostly past violations. Therefore, no corrective action plan is required at this time to address those violations listed.

8. During a meeting held August 18, 2010 with representatives of the Permittee and ADEQ, a report titled "ADEQ Clean Water Act Fulfillment Consent Decree Response" was given to ADEQ staff. The report addressed, among other items:

A. In November 2008, the Permittee awarded a contract to Camp Dresser & McKee, Inc. (CDM) to develop a Wastewater Master Plan (WWMP). The WWMP includes developing a Capital Improvements Plan and implementation schedule to

schedule to collection system and treatment plant improvements.

B. The Permittee submitted an outline of their Capacity, Management, Operations and Maintenance (CMOM) Self-Assessment Report dated September 2009. The report demonstrates that the Permittee has an ongoing CMOM program. The CMOM Report also includes language addressing SSO Reporting and documentation procedures.

C. The Permittee also submitted documentation of their Grease Control Program Work Plan and Report that includes language to demonstrate that they have an ongoing program to address Fats, Oils, and Greases (FOG).

D. The Permittee provided documentation that the Permittee has all of the legal authority necessary in place and current.

E. The Permittee also provided a graph demonstrating that the number of SSOs have been reduced, even though there were record rainfalls, which demonstrates that the Permittee is making efforts to address problems in the collection system.

ORDER AND AGREEMENT

Therefore, the parties do hereby stipulate and agree that:

1. **Wastewater Master Plan**

A. **Within 180 days of the effective date of this CAO**, the Permittee shall submit to ADEQ a comprehensive Wastewater Master Plan ("WWMP") with a milestone schedule which shall detail the steps the Permittee shall take to achieve full compliance with the terms of the Permit, to eliminate the violations cited in

violations cited in Paragraph 3 of the Findings of Fact, and to prevent future violations. Upon approval by ADEQ, the WWMP and milestone schedule shall be incorporated into this CAO by reference and shall be implemented by the Permittee. The WWMP shall contain the components listed in (B) through (E) below.

B. Capital Improvements Plan

A Capital Improvements Plan (C.I.P.) shall be included that lists all improvements required to the WCTS and WWTPs to eliminate violations cited in Paragraph 3 of the Findings of Fact, together with a milestone schedule for implementing the improvements.

C. Sewer System Evaluation Survey

With the overall goal of eliminating non-capacity and capacity related SSOs, the Permittee through the services of an engineer licensed in the State of Arkansas shall develop a Work Plan for conducting a Sewer System Evaluation Survey ("SSES"). The SSES Work Plan shall be included in the WWMP Report. The purpose of the SSES will be to:

- i. Identify each Sewershed with excessive infiltration and /or inflow ("I/I"), such that these conditions are causing and/or contributing to SSOs (including building/private property backups), overloading and/or bypasses at the WWTP;
- ii. Identify and quantify sources of I/I within the Sewersheds determined to have excessive I/I rates;
- iii. Identify and quantify SSOs;

- iv. Identify areas subject to building/private property backups;
- v. Identify cross connections and unauthorized connections; and
- vi. Identify physical degradation of the WCTS, including general pipe condition and condition of force mains, that causes or contributes to SSOs (including building/private property backups).

D. SSES, Pumping Station, Capacity Assessment, and Hydraulic Model Evaluation Report

- i. The WWMP Report shall present the information required in Order and Agreement Paragraph 1 and summarize the results of the Pumping Station Design and Equipment Condition Adequacy Evaluation, the Capacity Assessment, and the Hydraulic Model.
- ii. The SSES, Pumping Station, Capacity Assessment, and Hydraulic Model Report shall include a thorough analysis of historical and current flow monitoring, inspection, rainfall and other data, including data collected during the aforementioned studies, and shall in general:
 - a. Identify Sewersheds with excessive I/I, such that these conditions are causing and/or contributing to SSOs, overloading and/or bypasses at the WWTP;

- b. Identify and quantify sources of I/I within the Sewersheds determined to have excessive I/I rates;
- c. Identify and quantify SSOs;
- d. Specifically identify areas subject to building/private property backups;
- e. Identify portions of the system in which physical degradation of the WCTS is causing or contributing to SSOs; and
- f. The Permittee shall utilize the collected data from the SSES, Pumping Station, Capacity Assessment, and Hydraulic Model Evaluation to develop the Collection System Remedial and WWTP Measures Plan required pursuant to Order and Agreement Paragraph 1 (E).

E. Collection System and Wastewater Treatment Plant Remedial Measures Plan

- i. The WWMP shall include a Collection System and WWTP Remedial Measures Plan with specific measures and schedules that, when implemented, will result in adequate capacity in its WCTS and/or at its WWTPs, such that SSOs will be eliminated under current and future conditions.
- ii. The Collection System and WWTP Remedial Measures Plan shall identify all measures necessary to achieve adequate capacity. Adequate capacity is that capacity needed to collect, convey, and treat anticipated peak wet weather flows, without SSOs, bypasses, and/or overloading at the

overloading at the WWTP for the design condition. At a minimum, peak wet weather flows shall include the conditions considered as part of the Collection System and WWTP Assessment (see Order and Agreement Paragraphs 1 (C) and (D)). If insufficient capacity to accommodate projected peak wet weather flows exists in any portion of the system, including at the WWTPs, the Permittee shall identify and propose measures to provide adequate capacity to eliminate wet weather bypasses and SSOs.

iii. The Collection System and WWTP Remedial Measures Plan shall provide estimated capital costs for each identified remedial measure. The Collection System and WWTP Remedial Measures Plan shall provide a schedule for design, construction, and placement in service of all proposed measures that is as expeditious as possible, and shall in no event be later than ten (10) years from the effective date of this CAO.

iv. Upon approval by ADEQ, the Permittee shall implement the remedial measures in the approved Collection System and WWTP Remedial Measures Plan in accordance with the schedule contained therein.

2. Cross Connection Certification

A. **Within thirty (30) days of the effective date of this CAO**, the Permittee shall submit certification to ADEQ that no known cross connections between the sanitary and storm sewers exist.

B. If any cross connections are identified after the certification is submitted, the Permittee shall ensure that such cross connection is eliminated within ninety (90) days of identification.

3. Reporting

Beginning on February 1, 2011, the Permittee shall submit to ADEQ an Annual Report containing a summary of compliance with and activities related to the projects scheduled under Order and Agreement Paragraph 1 for the preceding calendar year (January through December). The summary shall include a certification that the Permittee is complying with the ADEQ-approved Wastewater Master Plan Work Plan. The Permittee shall submit the report each year by February 1 until termination of this CAO or February 1, 2021, whichever comes first.

4. In compromise and full settlement of the civil penalties for the violations specified in the Findings of Fact, the Permittee agrees to pay to ADEQ the total sum of **One Hundred Five Thousand Dollars (\$105,000)** as a voluntary civil penalty. The penalty shall be paid in twenty-four monthly (24) installments. The payments shall be in the amount of **Four Thousand Three Hundred Seventy Five Dollars (\$4375.00)**. Payment of the first installment shall be made within thirty (30) day of the effective date of this Order. The remaining installments shall be due by the 25th of each month following the first payment. Failure to make a scheduled payment will result in the remaining penalty amount being due immediately upon default. 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

5. All submittals required by this CAO 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 contained in Order and Agreement Paragraph 6.

6. Failure to meet the requirements or construction deadlines of this CAO or the approved schedules provided for herein constitutes a violation of the CAO. If the Permittee should fail to meet any such requirements 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 CAO.

7. 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 CAO, the Permittee shall so notify ADEQ, in writing, as

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.

8. ADEQ may grant an extension of any provision of this CAO, 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 ADEQ promptly, as provided in Order and Agreement Paragraph 6, shall be grounds for a denial of an extension.

9. This CAO is subject to public review and comment in accordance with Ark. Code Ann. §8-4-103(d) and Arkansas Pollution Control and Ecology Commission Regulation No. 8 and shall not be effective until thirty (30) days after public notice is given. ADEQ retains the right to rescind this CAO 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.

10. 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 CAO is granted by the Commission.

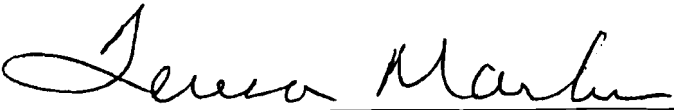
11. Nothing in this CAO shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this CAO does not exonerate the Permittee from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve the Permittee of its responsibilities for obtaining any necessary permits.

12. The Committee represents and affirms that it has existing funds appropriated and available to conduct the activities described herein.

13. The Committee represents that its abilities to commit to and provide funding or contract construction are limited by the provisions of A.C.A. 14-235-207. Such restriction may require the consent and approval of the City of North Little Rock in the future.

14. The Committee, in a duly convened meeting, with a quorum present, has approved this CAO and has authorized the individual appearing below to sign the CAO on its behalf.

SO ORDERED THIS 29th DAY OF December, 2010.



Teresa Marks, Director

APPROVED AS TO FORM AND CONTENT:

Wastewater Treatment Committee of North Little Rock, Arkansas

BY: K W Matthe
(Signature)
 CHAIRMAN
Chairman, Wastewater Treatment Committee

DATE: 12-21-10

ATTEST:

{Seal} Att. R. Julian, Secretary
Secretary, Wastewater Treatment Committee