

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Tri County Regional Water Distribution District  
Plainview Waste Water Treatment Plant  
P.O. Box 4030  
Russellville, AR 72802

LIS No. 21- **012**  
Permit No. AR0049344  
AFIN 75-00038

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 the Tri County Regional Water Distribution District — Plainview Wastewater Treatment Plant (Respondent) and the Division of Environmental Quality<sup>1</sup> (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 plant (“facility”) located on County Road 13, Plainview, Yell County, Arkansas.
2. Respondent discharges treated wastewater to Sally Spring Branch, thence to Browns Creek, thence to Porter Creek, thence to Wilson Slough, thence to Fourche LaFave River, thence

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<sup>1</sup> 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.

to Nimrod Lake, thence to Fourche LaFave River, thence to the Arkansas River in Segment 3E of the Arkansas 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. 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 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 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. On October 10, 2009, DEQ and Respondent entered into Consent Administrative Order (CAO) LIS 09-117 for repeated effluent violations and sanitary sewer overflows (SSOs).

10. DEQ renewed NPDES Permit Number AR0049344 ("Permit") to Respondent on October 10, 2017. The Permit became effective on November 1, 2017. The Permit was modified on October 1, 2020, with an effective date of November 1, 2020. The Permit expires on October 31, 2022.
11. On October 22, 2018, Respondent submitted a construction application to DEQ.
12. On December 10, 2018, DEQ received additional information from Respondent regarding the construction application submitted on October 22, 2018.
13. On April 18, 2019, DEQ issued a state construction application to Respondent with an effective date of April 25, 2019.
14. On June 2, 2020, Respondent submitted a request to DEQ via letter to modify the Permit. Respondent requested that the Permit be revised with Part II, Section 8 requirement removed.
15. On June 22, 2020, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.
16. 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 June 1, 2017 through October 30, 2020:
  - a. Twenty (20) violations of Total Suspended Solids;
  - b. Nineteen (19) violations of Total Phosphorus;
  - c. Four (4) violations of Ammonia Nitrogen;
  - d. Four (4) violations of Carbonaceous Biochemical Oxygen Demand; and
  - e. Two (2) violations of Fecal Coliform Bacteria.

17. Each of the forty-nine (49) discharge limitation violations listed in Paragraph 16 above constitutes a separate permit violation for a total of forty-nine (49) separate violations of Ark. Code Ann. § 8-4-217(a)(3).
18. On June 23, 2020, DEQ sent Respondent a letter requesting a Corrective Action Plan (CAP) to address the violations of the permitted effluent discharge limitations. The CAP was to have a milestone schedule, a final date of compliance, and be certified by a Professional Engineer (PE) licensed in the state of Arkansas.
19. On September 15, 2020, Respondent submitted a CAP to DEQ with a final compliance date of August 31, 2023.
20. On September 17, 2020, DEQ notified Respondent by letter that the CAP had been reviewed with the following comments:
- a. By abandoning the current overload treatment, the facility will be in violation of Rule 6.2020(B)(3)(a), which requires two cell wastewater treatment ponds to be followed by sand or rock filtration, or other solids removal devices.
  - b. DEQ recommends shortening the timeframe for sampling to determine the baseline of treatment.
  - c. Please submit a revised CAP and milestone schedule, incorporating the above comments, by October 2, 2020.
21. On September 21, 2020, DEQ sent Respondent information via email of Rule 6.202(B)(3)(a).
22. On September 29, 2020, Respondent submitted a Revised CAP to DEQ to address the comments in the September 17, 2020, letter.

23. On October 5, 2020, DEQ notified Respondent via letter that the Revised CAP submitted on September 29, 2020, was deemed adequate.

24. On October 6, 2020, DEQ notified Respondent via letter that the Permit had been modified to remove Part II, Section 8, and included a copy of the modified NPDES permit.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Upon the effective date of this Order, CAO LIS 09-117 shall be closed.
2. Respondent shall comply with the terms, milestone schedule, and final compliance date contained in the approved Revised CAP submitted on September 29, 2020. The milestone schedule and final compliance date of August 31, 2023, 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 Permit.
4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Five Thousand Six Hundred Dollars (\$5600.00), or one-half of the full civil penalty of Two Thousand Eight Hundred Dollars (\$2800.00) if this Order is signed and returned to the Office of Water Quality Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of receipt of this Order. 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 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. This Order has been reviewed and approved by the Tri County Regional Water Distribution District Board in a duly convened meeting with a quorum present. It is the intention of the Tri County Regional Water Distribution District Board to be bound by the terms appearing in the Order including, but not limited to, expending funds for compliance activities required by this Order and payment of a civil penalty as set forth in this Order. See copy of [meeting minutes or resolution] attached as Exhibit A.



12. The Tri County Regional Water Distribution District Board has authorized the Board member named below to sign this Order on behalf of the Board. See Exhibit A.

SO ORDERED THIS 3<sup>RD</sup> DAY OF FEBRUARY, 2021.

Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

Tri County Regional Water Distribution District  
Plainview Wastewater Treatment Plant

BY: [Signature]  
(Signature)

John Choate  
(Typed or printed name)

TITLE: General Manager

DATE: 1-20-21

## TRI COUNTY REGIONAL WATER DISTRIBUTION DISTRICT

Thursday, January 28, 2021

PRESENT: Robert Dale, Chairman  
J.M. Graves, Jr., Vice Chairman  
Len Cotton, Secretary  
Danny Bunting, Director  
Ross Rogers, Director  
Randy Young, Director  
Mark Limbird, Director  
Robert Taylor, Director

ABSENT: James Mitchell, Director

### **Call to Order**

Chairman Danny Bunting called the board meeting of Tri County Regional Water Distribution District to order at 10:00 am at 5306 North Arkansas Avenue, Russellville, Arkansas. Vice Chairman Robert Dale conducted a roll call of the board and declared a quorum present.

### **Installation of New Officers for 2021-2022:**

Robert Taylor introduced a motion to approve installation of the following officers for 2021-2022:

Chairman Robert Dale

Vice Chairman J.M. Graves, Jr.

Secretary Len Cotton

The motion received a second from Ross Rogers and passed by unanimous vote.

### **Oaths of Office:**

The 3 board members who had terms ending in 2020 signed new Oaths of Office to remain in their positions on the board as Position 3 for their county.

J.M. Graves, Jr. introduced a motion to approve the Oaths of Office for the following board members/positions:

Robert Taylor, position 3, Pope County

Ross Rogers, position 3, Logan County

Danny Bunting, position 3, Yell County

The motion received a second from Mark Limbird and passed by unanimous vote.

**Designation of Quarterly/Special Meetings:**

Per Timm Murdoch, January, April, July and October meetings need to be designated as Quarterly Meetings and all others as Special Meetings.

Ross Rogers introduced a motion to designate January, April, July and October as Quarterly Meetings and all other months as Special Meetings. The motion received a second from Mark Limbird and passed by unanimous vote.

**Approval of Minutes from Previous Meeting:**

Mark Limbird introduced a motion to approve the December 2020 minutes as distributed. The motion received a second from Len Cotton and passed by unanimous vote.

**Approval of Cash Flow and Operational Report**

Robert Taylor introduced a motion to approve the December 2020 Cash Flow and Operational Reports. The motion received a second from Danny Bunting and passed by unanimous vote.

**Approve Charge Off's**

Ross Rogers introduced a motion to approve the December 2020 charge offs in the amount of \$398.61. The motion received a second from Danny Bunting and passed by unanimous vote.

**Old Business:**

**Construction Updates: Loy Claunch & John Choate**

**Kingston Rover Phase III: Harvey**

This project is under construction and is approximately 85% complete with the waterline and 60% complete with the pump station. Water tank construction plans submitted to ADH November 23<sup>rd</sup>. ADH comment letter was received 1/11/21 and response was sent 1/21/21. Bids open on February 9<sup>th</sup> at 11:00am at the Tri County Water offices.

**Plainview Water Treatment Plant:**

Loy has submitted the plans to ADH and Rural Development the week of September 11. Received 2<sup>nd</sup> ADH comment letter dated October 29, responded to ADH November 23<sup>rd</sup>.

**Shoal Creek:**

The board requested that John Choate and Loy Claunch meet with the mayors of Dardanelle and Danville to discuss the Shoal Creek project. The board suggested a report outlining the project to date and a presentation with the key points,

maps and pictures. John Choate will be setting up a meeting to discuss this project, those interested in attending are Danny Bunting, Len Cotton, Randy Young and Robert Taylor.

**Hector WTP Third Module:**

Modules arrived 1/25/21, installation work has started.

**Plainview WWTP Pond Survey:**

DEQ revised discharge permit, eliminated requirement to remove sludge. Will have to address when permit is renewed October 31, 2022. Renewal will be submitted by April 30, 2022.

**Repaint Gum Log Tanks:**

Preparing response to ADH comment letter. Will be sent to ADH week of February 1<sup>st</sup>.

**Plainview WWTP:**

A Consent Administrative Order (CAO) has been issued. Received first set of samples for analysis this week.

**Lee Mountain-Rushing Road:**

This extension would be for approximately 10 customers at an estimated cost of \$50000 per customer. Pump station, line work would have to be contracted. More research and pricing has to be done. Resident has agreed to take petition around to see about interest.

**Update:** Petition was taken to residents in this area with 11 signatures, and 3 unable to contact. The board asked that John and Pat continue to look at cost estimate and funding options for this extension.

**Moore's Chapel Water Storage Tank:**

Plans were submitted to ADH for review on 12/2/20. ADH comment letter was received on 1/12/21 and the response to the letter was sent on 1/22/21.

**Appleton/Hwy 124 Utility Relocation:**

Preparing preliminary drawings and Opinion of Probable Cost.

**McCoy Creek Utility Relocation:**

This project is in preliminary stage.

**Committee Updates:**

No committee updates. John will need to set a meeting with the Building/Equipment committee soon which is Ross Rogers, James Mitchell and Robert Taylor.

**City Corporation Contract:**

Timm Murdoch reported that the City Corporation/Tri County Water Purchase Contract had come back from the City Corporation board with a change of terms from 30 years to 10 years. Mr. Murdoch is trying to clarify the change before advising the board to accept the change.

**New Business:**

**ADEQ Administrative Order for Plainview WWTP:**

Randy Young introduced a motion to approve the Administrative Order from ADEQ requesting Tri County Water to make changes to the Plainview Wastewater Treatment Plant to meet EPA standards. The motion received a second from Mark Limbird and passed by unanimous vote.

**Renewal of CD's**

The renewal of 2 18-month CD's were presented with the following interest rates:

\$500,000 CD and \$750,000 CD

First Security- no bid

Centennial- .35 12 month

First State Bank- no bid

Chambers Bank- .70 12 month

Bank OZK- .211 12 month

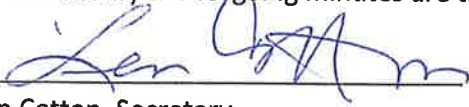
Diamond Bank- .20 12 month

Randy Young introduced a motion to approve renewal of the 2 CD's at Chambers Bank for 12 months at the rate of .70%. The motion received a second from Mark Limbird and passed by unanimous vote. Danny Bunting abstained from voting on this motion.

**Adjourn:**

Danny Bunting introduced a motion to adjourn. The motion received a second from Mark Limbird and passed by unanimous vote.

I, Len Cotton, Secretary of the Tri County Regional Water Distribution District Board of Directors, does with this certify that I was present at the monthly board meeting at Tri County Regional Water Distribution District Office, Russellville, Arkansas on January 28, 2021 and further certify the forgoing minutes are true and correct.

A handwritten signature in blue ink, appearing to read "Len Cotton", is written over a horizontal line.

Len Cotton, Secretary