

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Pollard  
237 South Street  
Pollard, AR 72456

LIS No. 22- 076  
Permit No. AR0045489  
AFIN 11-00084

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 City of Pollard (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 facility (“facility”) located 0.6 miles northwest from Pollard Post Office, County Road 339, Pollard, Clay County, Arkansas.
2. Respondent discharges treated wastewater to Horse Creek, thence to Housman Creek, thence to the Little Cache River Ditch, thence to Cache River Ditch No. 1, thence to the Cache River, thence to the White River in Segment 4B of the White River Basin.

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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.

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. DEQ issued NPDES Permit Number AR0045489 (“Permit”) to Respondent on January 31, 2018. The Permit became effective on February 1, 2018, and expires on January 31, 2023.

10. On August 10, 2021, DEQ conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit.

11. 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 July 1, 2018, through August 31, 2021:

- a. Forty-five (45) violations of Ammonia Nitrogen;
- b. Eight (8) violations of Total Suspended Solids;
- c. Six (6) violations of Carbonaceous Biochemical Oxygen Demand;
- d. Two (2) violations of Dissolved Oxygen; and
- e. Two (2) violations of Fecal Coliform Bacteria.

12. Each of the sixty-three (63) discharge limitation violations listed in Paragraph 11 above constitutes a separate permit violation for a total of sixty-three (63) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

13. On September 23, 2021, 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 compliance date, and be certified by a Professional Engineer (P.E.) licensed in the state of Arkansas. The CAP was to be submitted by October 29, 2021.

14. On December 7, 2021, DEQ and Respondent met via Zoom to discuss the violations of the permitted discharge limitations and the CAP. On December, 17 2021, Respondent requested an extension of the CAP submittal due date to February 1 2022.

15. On January 20, 2022, Respondent submitted, through its engineer, a CAP detailing the corrective actions to be taken to address the effluent violations at the facility. The CAP contained a milestone schedule with a final compliance date of May 1, 2024.

16. On February 18, 2022, DEQ sent Respondent a letter approving the CAP submitted on January 22, 2022, with the following comment:

- a. A State No-Discharge Permit would be required for the land application of wastewater.

### **ORDER AND AGREEMENT**

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately comply with the Corrective Action Plan, dated January 20, 2022, and final compliance date of May 1, 2024. The milestone schedule, and final compliance date shall be fully enforceable as terms of this Order.
2. 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 final permitted effluent limits set forth in Part I, Section A of the Permit. Respondent shall submit the final compliance report by May 1, 2024.
3. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Four Thousand Eight Hundred Dollars (\$4800.00), of which Four Thousand Eight Hundred Dollars (\$4800.00) shall be conditionally SUSPENDED by DEQ. The allowance of a conditional suspension is based upon DEQ's primary goal of regulatory compliance and Respondent's participation in the EPA Circuit Rider Program. If Respondent fully complies with this Order, the suspended civil penalty of Four Thousand Eight Hundred Dollars (\$4800.00) shall be DISMISSED by DEQ. The suspension and subsequent dismissal of civil penalties is contingent upon Respondent complying with the terms of this Order. If Respondent violates any term of this Order, the full balance of Four Thousand Eight

Hundred Dollars (\$4800.00) shall be payable to DEQ on demand. 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.

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 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 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.

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. This Order has been reviewed and approved by the City Council of Respondent in a duly convened meeting with a quorum present. See copy of [meeting minutes or resolution] attached as Exhibit A.

11. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to sign this Order on behalf of Respondent. See Exhibit A.

12. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to expend funds for compliance activities required by this Order including but not limited to the payment of a civil penalty as set forth in this Order. See Exhibit A.

SO ORDERED THIS 29<sup>TH</sup> DAY OF JUNE, 2022.

  
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JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

City of Pollard

BY:   
\_\_\_\_\_  
(Signature)

Marty L. Conley  
\_\_\_\_\_  
(Typed or printed name)

TITLE: Mayor  
\_\_\_\_\_

DATE: June 10, 2022



# CITY OF POLLARD

BOX 175  
POLLARD, ARKANSAS 72456

Marty Conley, Mayor  
Mary Small, Recorder-Treasurer  
Steve Baker, Alderman  
Zach Baker, Alderman  
Cody Culver, Alderman  
Rob Chandler, Alderman  
City Council Meets 1<sup>st</sup> Tuesday of Month

City Hall/Community Center  
609 Highway 62  
Phone/Fax: 870-544-2340

## Regular Business Meeting Minutes

7:00 p.m., June 7<sup>th</sup>, 2022

Pollard City Hall

Present: Mayor Marty Conley,  
Aldermen: Steve Baker, Zach Baker, Rob Chandler  
Recorder/Treasurer Mary D Small

Minutes of the May 3, 2022 meeting were accepted as prepared.

### Old Business:

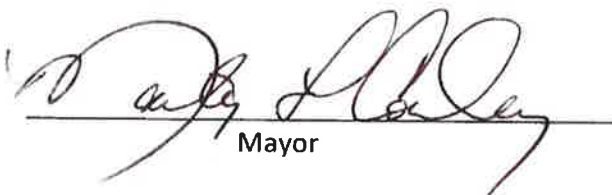
1. The council discussed purchase of site for surface applying wastewater for proposed wastewater treatment plan. The purchase agreement is still on track with initial plan. The site is currently planted in wheat to be harvested soon. Scheduling is being discussed with the farm tenant to allow required soil testing to be done after harvest. Steve Baker stated that this should happen in the next week or so.

### New Business:

1. Balance sheets and bank statements reviewed and approved by all council members.
2. Zach Baker gave report on ADEQ findings and notification of an administrative order. He will be contacting them regarding the administrative order. He will continue to keep everyone updated on progress. The council agreed unanimously to approve signature authority for Mayor, Marty Conley, to sign any documents regarding the administrative order.
3. Council discussed status of overdue water bills and disconnections.

No further discussion.

Meeting Adjourned at 8:15 p.m.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Recorder/Treasurer