

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Northeast Arkansas Public Water Authority  
1835 Highway 361  
Pocahontas, AR 72455

LIS No. 25- **019**  
Permit No. AR0051616  
AFIN 61-00171

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 Northeast Arkansas Public Water Authority (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 a minor industrial wastewater treatment facility ("facility") located at 1835 Highway 361, Pocahontas, Randolph County, Arkansas.
2. Respondent discharges treated wastewater to the Spring River, thence to the Black River, thence to the White River in Segment 4H of the White 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 a 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 AR0051616 (“Permit”) to Respondent on November 30, 2021. The Permit became effective on December 1, 2021, and expires on November 30, 2026.

#### DMR Violations

10. On January 8, 2025, DEQ conducted a review of the 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.A of the Permit from December 1, 2021, through November 30, 2024:

- a. Ten (10) violations of Total Suspended Solids; and
- b. Two (2) violation of Total Residual Chlorine.

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

13. The review of the DMRs revealed that Respondent failed to submit a Non-Compliance Report (NCR) for effluent violations reported for the monitoring period ending March 31, 2022. Failure to submit an NCR for each effluent violation is a violation of Part III.D.7 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

#### Operating without a Licensed Wastewater Operator

14. During the review of Respondent's records, DEQ discovered that the wastewater operator listed on the Permit did not have a current wastewater operator license. The wastewater operator's license expired on June 30, 2023. Part II.1 of the Permit requires Respondent to have a Basic Industrial wastewater operator licensed in the state of Arkansas. Failure to maintain a properly licensed wastewater operator is a violation of Part II.1 of the Permit and Ark. Code Ann. § 8-5-203 and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

15. On June 6, 2024, the licensed wastewater operator listed on the most recent Permit application submitted payment to renew his wastewater operator's license.

#### ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Within thirty (30) calendar days of the effective date of this Order, Respondent shall provide documentation that the facility has a wastewater operator who holds a minimum of a Basic Industrial license issued in the state of Arkansas.
2. Respondent shall immediately comply with all permitted effluent limits, unless a Corrective Action Plan (CAP) is submitted, as provided in Paragraph 3 of this Order, and approved by DEQ, in which case, Respondent shall comply with all permitted effluent limits no later than December 31, 2026.
3. If unable to immediately comply with all permitted effluent limits, Respondent shall, within thirty (30) calendar days of the effective date of this Order, submit to DEQ, for review and approval, a comprehensive CAP developed by a Professional Engineer licensed in the state of Arkansas. The CAP shall include, at minimum, the methods and best available technologies that will be used to correct the violations listed in Findings of Fact and prevent future violations and include a reasonable milestone schedule with a date of final compliance no later than December 31, 2026. Upon review and approval by DEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date contained in the approved CAP. The milestone schedule and final compliance date shall be fully enforceable as terms of this Order.
4. If a CAP is submitted, Respondent shall submit quarterly progress reports detailing the progress that has been made towards compliance with the permitted effluent limits set forth in Part I.A of the Permit. Within thirty (30) calendar days of the final compliance date in the approved CAP or by December 31, 2026, whichever occurs first, Respondent shall submit a final compliance report that includes a certification of compliance, signed and stamped by a Professional Engineer licensed in the state of Arkansas. Progress reports shall be due 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.

5. On or before the effective date of this Order, Respondent shall submit any NCRs that were previously completed but not submitted to DEQ, for any of the monitoring periods listed in paragraph 16 above. If Respondent has not previously completed a NCR for any of the monitoring periods listed in paragraph 13 above, a plan for submitting NCRs shall be submitted instead. The plan must be signed by the Responsible Official and Cognizant Official and include the following information:

- a. An acknowledgement of when NCRs are required; and
- b. Who will be submitting the NCRs.

For any future violations, Respondent shall submit NCRs on the form at <https://www.adeq.state.ar.us/water/enforcement/pdfs/ncr-form.pdf> completed in accordance with Part III, Section D, Condition 7 of the Permit. Respondent shall attach the completed NCRs to the corresponding monitoring period DMR via NetDMR.

6. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Two Thousand Eight Hundred Dollars (\$2800.00), or one-half of the full civil penalty of One Thousand Four Hundred Dollars (\$1400.00) 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. Even if the conditions for receiving a reduced penalty of One Thousand Four Hundred Dollars (\$1400.00) have been met, failure to otherwise comply with this Order will result in the penalty reverting to the full civil penalty of Two Thousand Eight Hundred Dollars (\$2800.00) and shall become due immediately and payable to DEQ. Payment is due within thirty (30) calendar

days of the effective date of this Order. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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) calendar 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.

12. 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.

13. Each of the undersigned representatives of the parties certifies that he or she is authorized to execute this Order and to legally bind that party to its terms and conditions.

SO ORDERED THIS <sup>10</sup>14 DAY OF <sup>month</sup>FEBRUARY BMT, 2025.

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

APPROVED AS TO FORM AND CONTENT:

Northeast Arkansas Public Water Authority

BY: William Teague  
(Signature)

WILLIAM TEAGUE  
(Typed or printed name)

TITLE: PRESIDENT

DATE: 02142025



RESOLUTION NO. 02142025

A RESOLUTION AUTHORIZING THE NEAPWA BOARD TO ENTER INTO A CONSENT ADMINISTRATIVE ORDER WITH THE ARKANSAS DEPARTMENT OF ENERGY & ENVIRONMENT, DIVISION OF ENVIRONMENTAL QUALITY (DEQ)

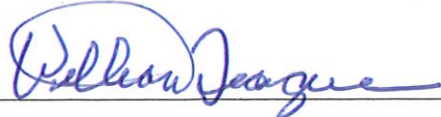
*WHEREAS, it is in the Board's best interest to enter into an agreement with DEQ and resolve the violations of the Arkansas Water and Air Pollution Control Act listed in the proposed Consent Administrative Order.*

*WHEREAS, the President or Designated person, working with a Professional Engineer, have developed a plan of action to address the issues listed in the proposed Consent Administrative Order.*

**NOW, THEREFORE, BE IT RESOLVED BY THE NEAPWA BOARD:**

- 1. The proposed Consent Administrative Order has been reviewed and approved by the Board in a duly convened meeting with a quorum present.*
- 2. The Board authorizes the President or Designated person to sign the proposed Consent Administrative Order.*
- 3. The Board authorizes the President or Designated person and treasurer to expend funds for compliance activities required by the proposed Consent Administrative Order including but not limited to the payment of a civil penalty as set forth in the proposed Consent Administrative Order.*

Adopted on this 14 day of FEBRUARY, 2025

APPROVED:   
President or Designated person

ATTEST:    
Secretary