

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT  
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Mayflower  
P.O. Box 69  
Mayflower, AR 72106

LIS No. 20- 155  
Permit No. AR0037206  
AFIN 23-00072

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 the regulations 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 Mayflower (Respondent) and the Division of Environmental Quality<sup>1</sup> (DEQ or “Division”), 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 wastewater treatment plant (“facility”) located at 100 Old Sandy Road in Mayflower, Faulkner County, Arkansas.
2. Respondent discharges treated wastewater to the Arkansas River in Segment 3F of the Arkansas 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 a renewal for NPDES Permit Number AR0037206 (“Permit”) to Respondent on July 18, 2013, with an effective date of August 1, 2013, and an expiration date of July 31, 2018. DEQ renewed the Permit on July 24, 2018. The Permit became effective on August 1, 2018, and expires on July 31, 2023.

10. On May 21, 2018, 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 April 1, 2015 through April 30, 2018:
  - a. One (1) violation for pH;
  - b. Six (6) violations for Ammonia Nitrogen; and
  - c. Five (5) violations for Fecal Coliform Bacteria.
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. On May 22, 2018, the Division sent Respondent a letter requesting a Corrective Action Plan (CAP) to address violations of the permitted effluent limitations. The CAP was to have a milestone schedule, a final date of compliance, and be certified by a Professional Engineer (P.E.) licensed in the state of Arkansas.
14. On June 14, 2018, Respondent submitted a CAP to address the violations of the permitted effluent limitations with a final compliance date of July 31, 2019.
15. On June 18, 2018, the Division sent Respondent a letter approving the June 14, 2018 CAP.
16. On January 18, 2019, the Division issued State Construction Permit AR0037206C ("Construction Permit") to Respondent for the addition of two (2) aerators to Cell 2 and a metering pump for the addition of caustic soda to increase alkalinity.

17. On May 28, 2019, a DEQ Enforcement Analyst called Respondent to discuss the condition of the facility as it related to the 2019 historic flooding of the Arkansas River. Respondent informed DEQ that the facility pumps would be shut off for protection as the floodwaters would potentially be entering the plant.
18. On June 7, 2019, the Division was notified that Respondent was pumping wastewater from Pump Station P, located at the intersection of Jackson Avenue and Robin Drive, to the floodwaters to prevent the wastewater from backing up into the nearby residences.
19. On June 10, 2019, Respondent provided an update stating the facility was still inundated with floodwaters and the lining in the aeration basin was floating.
20. On June 14, 2019, Respondent provided an update stating power was restored to the facility on June 12, 2019, however, the effluent pumps would require new motors and the aerators could not be started until the aeration basin liner was repaired.
21. On July 16, 2019, Respondent provided an update stating Denali had been contracted for sludge removal and aeration basin cleaning, and Environmental Specialties International would be onsite mid-August to repair the aeration basin liner. New surface aerators would then be installed as part of the planned improvements as authorized by the Construction Permit.
22. On August 8, 2019, DEQ met with Respondent to discuss the issues caused by the 2019 historic flooding of the Arkansas River and potential interim operating measures.
23. On August 21, 2019, DEQ conducted a review of certified DMRs submitted by Respondent in accordance with the Permit.
24. 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 May 1, 2018 through July 31, 2019:

- a. Two (2) violations for Total Suspended Solids;
  - b. One (1) violations for pH; and
  - c. Four (4) violations for Fecal Coliform Bacteria.
25. Each of the seven (7) discharge limitation violations listed in Paragraph 24 above constitutes a separate permit violation for a total of seven (7) separate violations of Ark. Code Ann. § 8-4-217(a)(3).
26. On September 23, 2019, Respondent submitted an update on the progress of the aeration basin sludge removal.
27. On November 7, 2019, DEQ met with Respondent to discuss alternative treatment methods in lieu of repairing the aeration basin liner.
28. On November 8, 2019, Respondent submitted the costs of sludge removal, liner removal, and sludge dredging with an estimated completion date of November 30, 2019 for all actions.
29. On November 18, 2019, Respondent submitted an update that the sludge dredging process had begun.
30. On December 18, 2019, Respondent notified DEQ that the sludge dredging had been completed.
31. On April 21, 2020, DEQ conducted a review of the certified DMRs submitted by Respondent in accordance with the Permit.
32. 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 August 1, 2019 through February 29, 2020:
- a. Sixteen (16) violations for Ammonia Nitrogen;
  - b. Ten (10) violations for Fecal Coliform Bacteria;

- c. One (1) violation for Carbonaceous Biochemical Oxygen Demand;
- d. One (1) violation Dissolved Oxygen; and
- e. One (1) violation for Total Suspended Solids.

33. Each of the twenty-nine (29) discharge limitation violations listed in Paragraph 32 above constitute a separate permit violation for a total of twenty-nine (29) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

34. Between April 1, 2015 and February 29, 2020, Respondent reported forty-eight (48) effluent discharge limitation violations. Each violation constitutes a separate permit violation for a total of forty-eight (48) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

#### **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 submit to DEQ, for review and approval, a Revised CAP developed by a P.E. licensed in the state of Arkansas. The Revised CAP shall include, at minimum, the methods and best available technologies that will be used to correct the violations listed in Findings of Fact Paragraphs 11, 24, and 32 and prevent future violations. The Revised Cap shall also include a reasonable milestone schedule with a date of final compliance no later than December 31, 2023. Upon review and approval of the Revised CAP by DEQ, Respondent shall implement the Revised CAP and comply with the terms, milestone schedule, and final compliance date of December 31, 2023, contained in the approved Revised CAP. The approved Revised CAP, milestone schedule, and final compliance date of December 31, 2023, shall be fully enforceable as terms of this Order.

2. Within sixty (60) calendar days of the effective date of this Order, Respondent shall submit an interim operating plan that describes, in detail, the operational measures that will be

taken to maximize the removal efficiency of all pollutants covered by the Permit. Respondent shall implement the interim operating plan immediately upon its submittal to DEQ.

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 final permitted effluent limits in Part 1, Section A of the Permit. Respondent shall submit the final compliance report, certified by a P. E. licensed in the state of Arkansas, by December 31, 2023.

4. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Six Thousand Dollars (\$6000.00), of which Six Thousand Dollars (\$6000.00) shall be conditionally SUSPENDED by DEQ. If Respondent fully complies with this Order, the suspended civil penalty of Six Thousand Dollars (\$6000.00) shall be DISMISSED by DEQ. The suspension and 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 Six Thousand Dollars (\$6000.00) shall become immediately due and payable to DEQ. 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 a 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 No. 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 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.

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 City Council of Respondent in a duly convened meeting with a quorum present. See copy of [meeting minutes or resolution] attached as Exhibit A.

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

13. 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 26th DAY OF June, 2020.

Becky W. Keogh  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Mayflower

BY: [Signature]  
(Signature)

Randy Holland  
(Typed or printed name)

TITLE: Mayor

DATE: 6/24/20

**COUNCIL MEETING CITY OF MAYFLOWER  
CITY CENTER COURT ROOM  
JUNE 23, 2020**

Mayor Randy Holland called the meeting to order in the City Center/Police Department Building at 7 p.m. following a workshop meeting at 5:00 p.m. to discuss means of financing for the sewer treatment plant upgrade. Attending the workshop was Will Elder, Stacin Dawson, Brian Williams, and Jennifer Massey. Answering roll call for the Council Meeting were Will Elder, Stacin Dawson, Mark Hickman, Brian Williams, Andrew Pelkey, and Jennifer Massey.

Brian Williams made a motion to accept the minutes of the May 26<sup>th</sup> regular council meeting minutes as written. Andrew Pelkey seconded the motion, and all members voted aye on voice vote.

Brian Williams made the motion, with a second by Will Elder to accept the May financial statements. Voting was as follows: Will Elder, aye; Stacin Dawson, aye; Mark Hickman, aye; Brian Williams, aye; Andrew Pelkey, aye; and Jennifer Massey, aye. Motion carried unanimously.

**ORDINANCE 2020-06 (Sewer Rates):** Ordinance 2020-06, establishing sewer rates sufficient to cover the cost of improvements and upgrades to the sewer treatment plant, was presented. Will Elder made the motion to place Ordinance 2020-06 on its first reading, read the entire ordinance, and vote on Ordinance 2020-06 after its reading. Brian Williams seconded the motion. Counselor Michael Moyers with the Friday, Eldridge, and Clark Firm read the ordinance in its entirety. Voting to accept Ordinance 2020-06 on its first reading was as follows: Will Elder, aye; Stacin Dawson, aye; Mark Hickman, aye; Brian Williams, aye; Andrew Pelkey, aye; and Jennifer Massey, aye. Motion carried unanimously.

**EXECUTE CEO (Consent Administrative Order) (CEO):** The City of Mayflower was issued a Consent Administrative Order (CEO) by ADEQ for failing to meet their parameters for discharging treated wastewater into the Arkansas River. According to the CEO, for the period of August 1, 2019, through February 29, 2020, the City of Mayflower had received twenty-nine (29) reported violations. Brian Williams made the motion for the Mayor to execute the Consent Administrative Order (CEO). Stan Dawson seconded the motion and voting was as follows: Will Elder, aye; Stacin Dawson, aye; Mark Hickman, aye; Brian Williams, aye; Andrew Pelkey, aye; and Jennifer Massey, aye. Motion carried unanimously

Reports from Water and Wastewater, Street Department, Animal Control, and Building Inspector's Office are attached herewith and made a part of these minutes.

**ANNOUNCEMENTS:**

The next regular council meeting is scheduled for Tuesday July 28, 2020 at 7:00 p.m.

**Council Meeting Minutes**  
**June 23, 2020**  
**Page 2 of 2**

The next planning commission meeting is scheduled for Tuesday July 7, 2020 at 7:00 p.m.

Mayor Holland announced that due to COVID-19 and the construction at the football field, the July 4<sup>th</sup> celebration for this year had been cancelled.

Andrew Pelkey made a motion, with a second by Mark Hick to adjourn. All members voted aye by voice vote.

**RECORDED BY:**

**APPROVED BY:**

\_\_\_\_\_  
Barbara Mathes, Recorder

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Randy Holland, Mayor