

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

Sugarloaf Waste Water Treatment  
P.O. Box 1256  
Diamond City, AR 72630

LIS No. 17-027  
Permit No. AR0043753  
AFIN 05-00075

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 issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the Sugarloaf Wastewater Treatment (Respondent) and the Arkansas Department of Environmental Quality (ADEQ or Department), 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 facility (facility) located at 1560 South Locust Drive in Diamond City, Boone County, Arkansas.
2. Respondent discharges treated wastewater to the East Sugarloaf Creek arm of Bull Shoals Lake, thence to Bull Shoals Lake, thence to the White River in Segment 4I 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. ADEQ is authorized under the Arkansas Water and Air Pollution Control Act (the 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, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].

7. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes ADEQ 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 regulation or permit issued pursuant to the Act.

8. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), “Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment.”

9. NPDES Permit Number AR0043753 (Permit) was issued to the Respondent on June 27, 2011. The Permit became effective on July 1, 2011 and expired on June 30, 2016. Pursuant to CAO LIS 16-153, Respondent continued operations subject to the conditions of the Permit until Respondent’s permit renewal became effective.

10. Respondent’s renewal Permit was subsequently issued with an effective date of September 1, 2016 and an expiration date of August 31, 2021.

11. On, March 17, 2017, ADEQ conducted a review of certified Discharge Monitoring Reports submitted by the Facility from June 1, 2013 through January 31, 2017 in accordance with the Permit. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit:

- a. Five (5) violations for Total Ammonia Nitrogen;
- b. Twenty Six (26) violations for Total Phosphorus; and
- c. Three (3) violations for Fecal Coliform.

12. Each of the thirty four (34) discharge limitation violations listed in Paragraph 11 above constitutes a separate violation of the Permit and therefore thirty-four(34) 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 the Order, Respondent shall submit to ADEQ for review and approval a comprehensive Corrective Action Plan (CAP) developed by a Professional Engineer licensed by the state of Arkansas. The CAP shall at minimum include a reasonable milestone schedule with a date of final compliance. The CAP shall detail the methods and best available technologies that will be used to correct the violations listed in Findings of Fact Paragraph 11 and prevent future violations. Upon review and approval by ADEQ, Respondent shall comply with the terms, milestone schedule and final compliance date. The approved CAP, milestone schedule and date of final compliance shall be fully enforceable as terms of this Order.

2. Respondent shall submit progress reports that detail the work completed from the approved CAP until such time that the project is completed. The first report shall be due within three (3) months of the ADEQ's written approval of the CAP. All subsequent reports shall be due on the 15th of the month following the end of each calendar quarter.
3. Within thirty (30) calendar days of the date of final compliance established in the CAP, Respondent shall submit a report, through a PE licensed in the State of Arkansas, certifying that compliance with the permitted effluent limits has been achieved.
4. 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 (\$4,800.00), or one-half of the full civil penalty of Two Thousand Four Hundred Dollars (\$2,400.00) if this Order is signed and returned to the Water Division Enforcement Branch, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, prior to April 10, 2017. 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 Arkansas Department of Environmental Quality, and mailed to the attention of:

Arkansas Department of Environmental Quality  
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, ADEQ 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 said Order. If Respondent should fail to meet any such requirements or deadlines, the Respondent consents and agrees to pay on demand to ADEQ 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 which may be available to ADEQ 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 which 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 ADEQ, 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. ADEQ may grant an extension of any provision of this Order, provided that Respondent 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 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. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify the ADEQ 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 ADEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by ADEQ, submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies. Failure to adequately respond to such Notice of Deficiency within the timeframe specified in writing by ADEQ constitutes a failure to meet the requirements established by this Order.

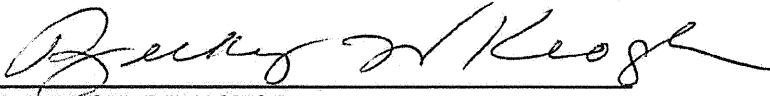
9. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Regulation No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. ADEQ retains the right to rescind this Order based upon the comments received within the thirty-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 10<sup>th</sup> or 25<sup>th</sup> day of the month following the date this Order is executed. 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 Order is granted by the Commission.

10. Nothing in this Order shall be construed as a waiver by ADEQ 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 which is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

11. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this CAO by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly

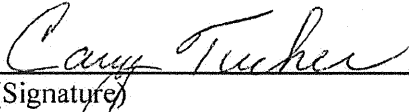
ratified by the governing body of the entity.

SO ORDERED THIS 13<sup>th</sup> DAY OF APRIL, 2017.

  
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

SUGARLOAF WASTEWATER TREATMENT

BY:   
(Signature)

CAREY TUCKER  
(Typed or printed name)

TITLE: BOARD PRESIDENT

DATE: 4-5-2017