

2025-R-08
RESOLUTION NO 2025-06

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

WHEREAS, it is in the City'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

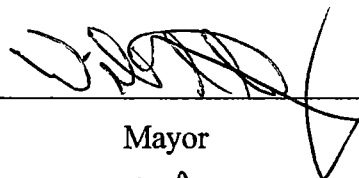
WHEREAS, the Mayor and Public Works Director or other designated person, working with a Professional Engineer, have developed a plan of action to address the issues listed in the proposed Consent Administrative Order

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BULL SHOALS

- 1 *The proposed Consent Administrative Order has been reviewed and approved by the City Council in a duly convened meeting with a quorum present.*
- 2 *The City Council of the City of BULL SHOALS authorizes the Mayor to sign the proposed Consent Administrative Order*
- 3 *The City Council of the City of BULL SHOALS authorizes the Mayor 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 29TH day of MAY, 2025

APPROVED



Mayor

ATTEST



City Clerk



**DIVISION OF
ENVIRONMENTAL QUALITY**

Sarah Huckabee Sanders
GOVERNOR

Shane E. Khoury
SECRETARY

May 15, 2025

Bill Stahlman, Mayor
City of Bull Shoals
PO Box 390
Bull Shoals, AR 72619

Email. bstahlman@cityofbullshoals.org

**RE NPDES Permit Number AR0037028, AFIN 45-00020
PROPOSED CONSENT ADMINISTRATIVE ORDER**

Dear Mayor Stahlman.

Attached is a proposed Consent Administrative Order (CAO) for violations of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-201 *et seq*, at a site located at 258 Golf Course Terrace in Bull Shoals, Arkansas. The Division of Environmental Quality (DEQ) has determined that this CAO is necessary to ensure compliance with the Act.

The enclosed CAO lists violations in the "Findings of Fact" section and the items needed to achieve compliance in the "Order and Agreement" section. Additionally, DEQ proposes a civil penalty of \$10,000.00 conditionally suspending and dismissing \$8000.00 to settle the violations outlined in this CAO. The penalty reduction incentive for expedited settlement will be withdrawn **twenty (20) calendar days** after this letter is received unless an arrangement for extension has been reached. If you choose to accept the terms of the CAO, please sign, date, and **return the signed copy** to the Office of Water Quality Enforcement Branch at the email listed below. A City Council Resolution that approves the CAO and authorizes the Mayor and Clerk/Treasurer to sign the CAO on behalf of the City of Bull Shoals must also be submitted. Subsequently, the Director of DEQ will sign the CAO and you will be provided a copy including information on the public notice process and the effective date of the CAO.

In addition, you may have the option of directing up to thirty-five percent (35%) of your penalty toward a Supplemental Environmental Project (SEP) to advance environmental interests. The DEQ Director has the final authority to establish the level of mitigation of a penalty. If you are interested in a SEP as part of your negotiated settlement, please refer to DEQ's SEP Policy and Proposal Guidelines at <https://adeq.state.ar.us/legal/sep.aspx> for additional information.

Failure to contact DEQ's Office of Water Quality, Enforcement Branch in response to this CAO within **twenty (20) calendar days** of receipt of this letter will constitute a rejection and unilateral enforcement action may proceed. Should you wish to discuss this matter further, or schedule a meeting, you may contact me at 501-682-0699 or tiana.toups@arkansas.gov

Sincerely,

A handwritten signature in cursive script that reads "Tiana Toups".

Tiana Toups
Compliance Analyst, OWQ, DEQ

Cc Michael Salentine, Operator, maswastewater@gmail.com

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF

City of Bull Shoals
Bull Shoals Wastewater Treatment Plant
PO Box 390
Bull Shoals, AR 72619

LIS No 25-
Permit No AR0037028
AFIN 45-00020

,
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 rules¹ issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC)

The issues herein having been settled by the agreement of the City of Bull Shoals (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 municipal wastewater treatment facility (“facility”) located at 258 Golf Course Terrace, Bull Shoals, Marion County, Arkansas.
2. Respondent discharges treated wastewater 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)

¹ Act 662 of the 2019 regular session of the General Assembly established the Code of Arkansas Rules. The rules promulgated by the Arkansas Pollution Control and Ecology Commission are now codified in Title 8 of the Code of Arkansas Rules.

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 AR0037028 (“Permit”) to Respondent on September 13, 2017. The Permit became effective on October 1, 2017, and expired on September 30, 2022. The Permit was administratively continued pursuant to APC&EC Rule 6.201, now codified at 8 CAR § 25-201, until DEQ issued the renewal Permit on September 28, 2022, with an effective date of October 1, 2022, and an expiration date of September 30, 2027.

10 On June 5, 2024, DEQ conducted a review of the SSOs reported by Respondent in accordance with the Permit for the period of June 1, 2019, through May 31, 2024. The review

revealed that Respondent reported twenty-six (26) Sanitary Sewer Overflows (SSOs) totaling over 660,000 gallons. Another nineteen (19) SSOs were reported without an estimated number of gallons released. Respondent is permitted to discharge treated municipal wastewater from its permitted outfall. Respondent is not permitted to discharge untreated wastewater from its collection system. Each of the forty-five (45) SSOs constitutes an unpermitted discharge. Each unpermitted discharge violated Ark. Code Ann. § 8-4-217(b)(1)(E) and therefore violated Ark. Code Ann. § 8-4-217(a)(3).

11 On February 3, 2025, DEQ conducted a review of the SSOs reported by Respondent in accordance with the Permit for the period of June 1, 2024, through January 31, 2025. The review revealed that Respondent reported nine (9) SSOs totaling over 536,000 gallons. Respondent is permitted to discharge treated municipal wastewater from its permitted outfall. Respondent is not permitted to discharge untreated wastewater from its collection system. Each of the nine (9) SSOs constitutes an unpermitted discharge. Each unpermitted discharge violated Ark. Code Ann. § 8-4-217(b)(1)(E) and therefore violated Ark. Code Ann. § 8-4-217(a)(3).

12 On May 13, 2025, DEQ conducted a review of the SSOs reported by Respondent in accordance with the Permit for the period of February 1, 2025, through May 10, 2025. The review revealed that Respondent reported two (2) SSOs totaling over 420,000 gallons. Respondent is permitted to discharge treated municipal wastewater from its permitted outfall. Respondent is not permitted to discharge untreated wastewater from its collection system. Each of the two (2) SSOs constitutes an unpermitted discharge. Each unpermitted discharge violated Ark. Code Ann. § 8-4-217(b)(1)(E) and therefore violated Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows.

1 Within twelve (12) months of the effective date of this Order, with the overall goal of eliminating capacity and non-capacity related SSOs, Respondent shall develop and submit to DEQ, for review and approval, a Sewer System Evaluation Study (SSES) for its sanitary sewer collection system for the facility. The SSES must be signed and stamped by a Professional Engineer (P.E.) licensed in the state of Arkansas.

a. The SSES should have the following elements, at minimum.

- i. Perform smoke testing in all areas of the collection system, beginning with highest priority areas,
- ii. Perform televising of lines in areas deemed necessary based on smoke testing in order to locate leaks and to determine method of repair;
- iii. Develop a plan to address deficiencies through rehabilitation, repair, or replacement;
- iv Develop a manhole inspection program, to begin in highest priority area, and
- v Recommend a method of repair and develop a cost estimate for such. Based on the results of the above studies, Respondent will be able to identify areas requiring improvements and to prioritize those improvements considering short-term and long-term improvements necessary to remedy the deficiencies.

b The SSES shall include a Capital Improvement Plan with a milestone schedule that details the steps Respondent shall take to implement the corrective action fully and expeditiously

c. The Capital Improvement Plan shall include a system improvement prioritization with high, medium, and low priority projects. Sources of funding should be identified for all

high-priority projects. Forecasts of available funding for medium and low-priority projects should be made to facilitate future revenue needs.

- d. Upon approval by DEQ, the SSES, including the Capital Improvement Plan, and milestone schedule shall be incorporated into this Order by reference and become fully enforceable as the 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 the elimination of SSOs. Within thirty (30) calendar days of the final compliance date in the approved SSO Plan, Respondent shall submit a final compliance report that includes a certification of compliance signed and stamped by a P.E. licensed in the state of Arkansas.

3 In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Ten Thousand Dollars (\$10,000 00)², of which Eight Thousand Dollars (\$8000 00) shall be conditionally SUSPENDED by DEQ. The allowance of a conditional suspension is based upon DEQ's primary goal of regulatory compliance. If Respondent fully complies with this Order, the suspended penalty of Eight Thousand Dollars (\$8000 00) shall be DISMISSED by DEQ. The suspension and dismissal of civil penalties is contingent upon Respondent complying with the terms of this Order, including payment of the civil penalty and reimbursement for administrative costs. If Respondent violates any term of this Order, the full balance of Ten Thousand Dollars (\$10,000 00) shall become payable immediately to DEQ. Payment of the civil penalty³, including reimbursement for administrative costs, in the amount of

² Ten percent (10%) of the total penalty will be paid to DEQ as reimbursement for administrative costs associated with the Order

³ Amount of civil penalty to be paid = Total civil penalty – suspended penalty

Two Thousand Dollars (\$2000 00) is due within thirty (30) calendar days of the effective date of this Order, and 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 the 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, codified at 8 CAR Part 11, 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, codified at 8 CAR Part 11, 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 DAY OF May, 2025

BAILEY M. TAYLOR
CHIEF ADMINISTRATOR OF ENVIRONMENT AND DEQ DIRECTOR
ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT

APPROVED AS TO FORM AND CONTENT

City of Bull Shoals

BY 
(Signature)

BILL STAHMAN
(Typed or printed name)

TITLE MAYOR

DATE 5-29-2025