

F12FS

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**CITY OF BENTON, ARKANSAS AND
PUBLIC UTILITY COMMISSION OF
THE CITY OF BENTON, ARKANSAS
616 WEST HAZEL STREET
BENTON, ARKANSAS 72015**

**LIS NO. 11-069
AFIN 63-00063.
Permit No. AR0036498**

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "Order") is issued pursuant to Ark. Code Ann. § 8-1-202(b)(2)(B), which authorizes the Director of the Arkansas Department of Environmental Quality (hereinafter "ADEQ" or "Department") to initiate and settle administrative enforcement actions to compel compliance with laws, orders, and regulations charged to the responsibility of the Department, including, but not limited to, the Federal Water Pollution Control Act, 33 U.S.C § 1311 *et seq.*, and the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, and all regulations issued thereunder. The Director may also propose the assessment of civil penalties as provided by Ark. Code Ann. § 8-4-103(c) and the Arkansas Pollution Control and Ecology Commission (hereinafter "APC&EC") Regulation No. 7, Civil Penalties, and take all actions necessary to collect such penalties.

The issues herein having been settled by the agreement of the City of Benton, Arkansas, and the Public Utility Commission of the City of Benton, Arkansas (hereinafter the "Permittee") and ADEQ, it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered herein.

FINDINGS OF FACT

1. The Permittee is a duly incorporated municipality located in Saline County, Arkansas. The Permittee operates a wastewater treatment facility regulated pursuant to the National Pollutant Discharge Elimination System (hereinafter "NPDES"). NPDES Permit Number AR0036498 (hereinafter "the permit") was issued September 30, 2008 by the authority of ADEQ to the Permittee, with an expiration date of September 30, 2013.
2. The Permittee exceeded the effluent characteristic limits in violation of Part I, Section A of the permit, incorporated by reference as Attachment "A". It is unlawful to violate the provisions of the Arkansas Water and Air Pollution Control Act or to violate the provisions of a permit issued pursuant to the Act. Ark. Code Ann. § 8-4-217(a)(3). Violations of the permit's effluent limits found in Discharge Monitoring Reports (hereinafter "DMRs") submitted by the Permittee to ADEQ for Outfall 001, since June 2007, are incorporated into this Order by reference as Attachment "B".
3. Upon investigation, the Permittee determined most of the effluent violations were caused by calculation and parameter reporting errors. The Department received the corrected DMRs (incorporated by reference as Attachment "C") on November 30, 2010.
4. The Permittee has reported numerous sanitary sewer overflows (SSOs) in the past three (3) years, with the majority due to inflow and infiltration in the collection system. SSOs reported since June 2007 are incorporated into this Order by reference as Attachment "D".
5. On February 24, 2010, in response to a complaint, an inspection (which included an inspection report incorporated within Attachment "E") was conducted by an ADEQ

Water Division Field Inspector. The inspection revealed the following violations:

- a. A SSO was overflowing from a manhole on Highway 35 and flowing into a roadside ditch and into an unnamed tributary, then to Holly Creek, which flows into the Saline River, thereby causing pollution of the waters of the State in violation of Ark. Code Ann. § 8-4-217(a)(1) and Part III, Section A, Paragraph 1, and Part III, Section B, Paragraph 3 of the Permit. The Saline River is an Extraordinary Resource Water pursuant to APC&EC Regulation 2. It is unlawful to violate the provisions of the Arkansas Water and Air Pollution Control Act or to violate the provisions of a permit issued pursuant to the Act. Ark. Code Ann. § 8-4-217(a)(3); and**
- b. The Department was not notified within twenty-four (24) hours of the overflow in violation of Part III, Section A, Paragraph 1, and Part III, Section D, Paragraph 6 of the Permit. It is unlawful to violate the provisions of a permit issued pursuant to the Arkansas Water and Air Pollution Control Act. Ark. Code Ann. § 8-4-217(a)(3).**

The Inspector notified Benton Utility personnel of the SSO. Upon being notified of the SSO, the blockage was immediately addressed.

Notice of the inspection (incorporated within Attachment "E") was sent to the Permittee on March 2, 2010. The inspection required a written response to be submitted to the Department by March 16, 2010.

6. The response addressing the violations included in the inspection report was received on March 11, 2010, and shall be incorporated into this Order by reference as Attachment "E".

7. During negotiations of this Order the Permittee submitted the following documents that would have been required in the Order and Agreement section:

- a. Corrective Action Plan with milestone schedule, which is incorporated into this Order by reference as Attachment "F";
- b. Sanitary Sewer Overflow Response Plan, which is also incorporated into this Order by reference as Attachment "G"; and
- c. Spare Parts Inventory, which is incorporated into this Order by reference as Attachment "G".

ORDER AND AGREEMENT

Therefore, the parties do hereby stipulate and agree that:

1. Within **twenty-four (24) months** of the effective date of this Order, with the overall goal of eliminating capacity and noncapacity related SSOs, the Permittee by means of its own forces and the assistance of a Professional Engineer licensed in the State of Arkansas shall develop and submit to ADEQ for approval a Sewer System Evaluation Study ("SSES") for portions of its sanitary sewer collection system.

- a. The Permittee previously completed a Flow Study of the collection system. Therefore, at minimum, the SSES shall:
 - i. Divide collection system into drainage basins;
 - ii. Prioritize basins based upon location and concentration of identified SSOs;
 - iii. Perform smoke testing in all basins, beginning with highest priority basins;

- iv. Perform televising of lines in areas deemed necessary based on smoke testing. The purpose of this will be to locate leaks and to determine method of repair;
- v. Develop a plan to address deficiencies through rehabilitation, repair, or replacement;
- vi. Develop a manhole inspection program, beginning in highest priority basin; and
- vii. Recommend a method of repair and develop a cost estimate for such. Based on the results of the above studies, the Permittee will be able to identify areas requiring improvements and to prioritize those improvements. Short-term and long-term improvements will be considered to remedy deficiencies.

b. The SSES shall include an SSO Plan with a milestone schedule which shall detail the steps the Permittee shall take to fully and expeditiously implement the corrective action. Upon approval by ADEQ, the SSO Plan and milestone schedule shall be incorporated into this Order by reference and shall be followed by the Permittee. Failure to comply with the schedule, as approved by ADEQ, shall be subject to the stipulated penalties contained in Paragraph 7 below.

2. Within **sixty (60) days** of the effective date of this Order, the Permittee shall identify all pumping stations that do not have direct notification alarms and auxiliary power provisions and submit for ADEQ approval a milestone schedule for installing them. Upon approval by ADEQ, the milestone schedule shall be incorporated into this Order by reference and shall be followed by the Permittee. Failure to comply with the schedule, as approved by ADEQ, shall be subject to the stipulated penalties contained in Paragraph 7 below.

3. Within **forty-five (45) days** of the effective date of this Order, the Permittee shall employ the services of a professional engineer licensed in the State of Arkansas to develop a continuous Capacity, Management, Operation, and Maintenance Program ("CMOM") for its sanitary sewer collection system. Within twelve (12) months of the effective date of this Order, the Permittee will submit the CMOM.

The CMOM shall include the following elements:

- a. The CMOM shall enable the Permittee to:
 - i. Properly manage, operate, and maintain, at all times, all parts of the collection system the Permittee owns or over which it retains operational control;
 - ii. Provide adequate capacity to convey base flows and peak flows for all parts of the collection system the Permittee owns or over which it retains operational control and take all feasible steps to stop and mitigate the impact of non-wet weather related sanitary sewer overflows in portions of the collection system owned

by the Permittee or over which the Permittee retains operational control; and

- iii. Provide notification to parties with a reasonable potential for exposure to pollutants associated with an overflow event.

b. The CMOM shall include a Statement of Major Goals consistent with Paragraph 3(A)(i-iii) above and a schedule for the implementation and achievement of the goals.

c. The CMOM shall include documentation identifying the Permittee's authority to:

- i. Control private inflow sources;
- ii. Require that sewers and connections be properly designed and constructed;
- iii. Ensure proper installation, testing, and inspection of new and rehabilitated sewers (such collector sewers and service laterals);
- iv. Address flows from satellite municipal collection systems; and
- v. Implement the general and specific prohibitions of the national pretreatment program which the Permittee is subject to under 40 CFR § 403.5.

d. The CMOM shall include a list which shall identify the management/administrative personnel responsible for implementing the

CMOM program, including lines of authority by organizational chart or similar document. The list shall also identify the individuals, or positions within its organization, responsible for the following elements:

- i. Lift station operation and maintenance;
- ii. Geographic Information System, a geo-based inventory of collection system assets and associated databases that supports system mapping and other utility operations;
- iii. Maintenance procedures that insure managers and supervisors are provided timely, relevant information from field personnel in order to establish and prioritize collections system activities (such as the immediate elimination of dry weather overflows or overflows into sensitive waters based upon consideration of factors, including: public drinking water supplies and their source waters, swimming beaches and waters where swimming occurs, shellfish beds, designated Outstanding National Resource Waters, National Marine Sanctuaries, waters within federal, state or local parks, and water containing threatened or endangered species or their habitat);
- iv. Computerized Maintenance Management System, an asset information and work management software

used to schedule and track all work performed on collection system, lift station, and wastewater treatment plant (WWTP) assets.

- v. Collection system preventive maintenance activities;
 - vi. Assessment of the current capacity of the collection system and treatment facilities which the Permittee owns or over which it retains operational control;
 - vii. Identification and prioritization of structural deficiencies and the short-term rehabilitation actions to address each deficiency;
 - viii. Collection system employee training;
 - ix. Equipment and replacement parts inventories, including identification of critical replacements parts; and
 - x. Trap Control Program to abate the impact of fats, oil, and grease (FOG) on the collection system.
- e. The CMOM shall establish requirements and standards for the installation of new sewers, pumps, and other appurtenances and rehabilitation and repair projects. The requirements and standards must include the specifications and procedures for testing the installation of new sewers, pumps, and other appurtenances, and for rehabilitation and repair projects.

f. The Permittee shall develop a written summary of the CMOM program. This summary shall be made available to any member of the public upon request.

g. The Permittee shall:

- i. Submit to ADEQ on or before July 31st each year annual reports for the previous calendar year on the implementation of each element of its CMOM program and on measurement of the program's effectiveness. The reports will be required for five years or until this Order is closed, whichever occurs first;
- ii. Update CMOM program elements based on monitoring or performance evaluations; and
- iii. Modify the summary of its CMOM program, as appropriate, to keep it updated and accurate.

4. All submittals required to be sent to the Department of the Order and Agreement shall be sent to:

Enforcement Water Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

5. In compromise and full settlement of the civil penalties for violations (specified in the Findings of Fact), the Permittee agrees to pay to ADEQ the total sum of Ten Thousand Dollars (\$10,000.00) as a voluntary civil penalty. **Within thirty (30) days of**

the effective date of this Order payment of the penalty shall be made payable to the Arkansas Department of Environmental Quality and mailed to the attention of:

The Fiscal Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

6. All submittals required by this Order are subject to approval by ADEQ. In the event of any deficiency, the Permittee shall within fifteen (15) days of notification by ADEQ submit any additional information requested. Failure to adequately respond to the notice of deficiency within fifteen (15) days constitutes a failure to meet a deadline and is subject to the civil penalties established in paragraph 7 below.

7. Failure to meet the requirements of this Order provided for herein constitutes a violation of said Order. If the Permittee should fail to meet any such requirements, or deadlines, the Permittee consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

- (a) First day through the tenth day: \$100.00 per day;
 - (b) Eleventh day through the twentieth day: \$200.00 per day;
 - (c) Twenty-first day through thirtieth day: \$300.00 per day;
- and,
- (d) Each day beyond the thirtieth day: \$500.00 per day

These stipulated penalties for delays in performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of the Permittee's failure to comply with the requirements of this Order.

8. 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 the Permittee with the requirements or deadlines of this Order, the Permittee 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 the Permittee's milestone schedule. 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. ADEQ may grant an extension of any provision of this Order, provided that the Permittee 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 the Permittee. 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 the Permittee and the length of the delay attributable to such circumstances shall rest with the Permittee. Failure to notify the ADEQ promptly, as provided in Paragraph 8 of this Section, shall be grounds for a denial of an extension.

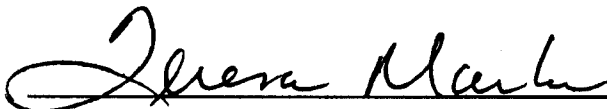
10. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103 (d) and APC&EC Regulation No. 8 and shall not be effective until thirty (30) days after public notice is given. ADEQ retains the right to rescind this Order based upon the comments received within the thirty-day public comment period.

Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance with the terms of the permit shall be taken immediately.

11. 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.

12. 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 the Permittee from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve the Permittee of its responsibilities for obtaining any necessary permits.

SO ORDERED THIS 20th DAY OF April, 2011



TERESA MARKS, DIRECTOR

APPROVED AS TO FORM AND CONTENT

BY:


(Signature)

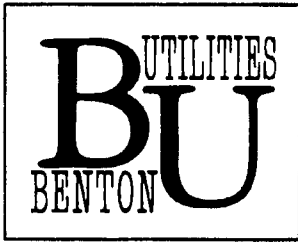
GARY FERRELL

(Typed or printed name)

TITLE: CHAIRMAN OF BENTON PLC

DATE: APRIL 12, 2011

F1095



BENTON UTILITIES

BENTON, ARKANSAS

AR 0036498

July 19, 2011

Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

JUL 29 2011
KN 9:32

Attn: Ms. Rene' E. Meints

BENTON UTILITY PUMP STATION INFORMATION AND SCHEDULE

Summary

This study has been prepared in response to Consent Administrative Order LIS Number 11-069. The Arkansas Department of Environmental Quality (ADEQ) has instructed Benton Utilities (BU) to identify all pumping stations that do not have direct notification alarms and auxiliary power provisions as well as to provide a milestone schedule for installing the required items. The report is to be completed on or before August 10, 2011.

General

BU has 37 major pump stations (See Appendix A) within its sanitary sewer collections system. A major pump station is defined as having a pump with a minimum of five (5) horsepower. The pump stations listed in Appendix A range from the smallest at five (5) horsepower to the largest at seventy-five (75) horsepower. The average pump size is approximately fifteen (15) horsepower.

Monitoring

All of the stations have a direct notification alarm whether it is visual or audio, and fourteen (14) of the pump stations are on the Supervisory Control and Data Acquisition (SCADA) system (See

Appendix A). The SCADA system constantly monitors these stations and alerts staff of problems or alarms. The SCADA system monitors the lift stations for power, seal failure, high level alarms, communication failures, and high temperature alarms. This information can be monitored from three (3) locations: the wastewater treatment plant (SCADA base), BU's main office, and the collection system manager's office. The wastewater treatment plant manager may also view the information on a wireless laptop from remote locations. The Schedule section discusses future plans for bringing all of the lift stations listed in Appendix A onto the SCADA system.

Auxiliary Power

Five (5) of the 37 pump stations have permanent auxiliary power in the form of generators, and seven (7) of the stations are wired for portable backup generators (See Appendix A). This leaves 26 stations to be wired for auxiliary power (See Appendix A). The Schedule section outlines a schedule for supplying all stations with auxiliary power.

Schedule

BU is able to budget approximately \$20,000 per year to install the SCADA system on pump stations. Pump stations that are in low lying areas or have significant topographical relief will cost more to install the SCADA system due to the need for repeater antennas. It is anticipated that seven (7) stations (See Appendix A) will not require a repeater. These stations are estimated to cost approximately \$7,300 each to install the SCADA system (in 2011 dollars). This will only allow two (2) to three (3) stations per year to be installed. At that rate, it will take approximately nine (9) to ten (10) years to have all the major pump stations on SCADA. However, future budgets may allow for more in a given year. A conservative estimate is all major pump stations will be on the SCADA system by the year 2022. A priority list of pump stations to be added to the SCADA system may be seen in Appendix A. It is anticipated to cost approximately \$3,000 each to wire pump stations for a backup generator to provide auxiliary power. BU's goal is to wire three (3) or four (4) pump stations each year until all major stations have auxiliary power capability. If that rate is maintained, all major stations could have the capability of auxiliary power by the year 2020. The priority list in which stations will be wired for auxiliary power may be seen in Appendix A.

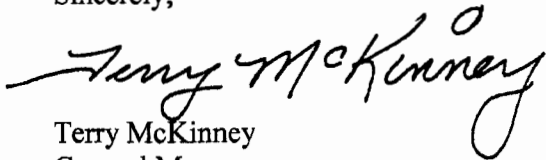
Conclusion

Currently, all the major stations have direct notification alarms. All major stations are planned to be on SCADA by 2022, and all major stations are planned to have auxiliary power capabilities by 2020. Auxiliary power is more of a priority than adding stations to the SCADA system. The priority of each pump station in Appendix A is subject to change due to constant improvements and modifications in the collection system. If prices remain constant and all upgrades are made, the City of Benton will spend approximately \$300,000 over the next ten (10) years.

This report was prepared by McClelland Consulting Engineers, Inc. through information provided in part by BU.

Please feel free to call or e-mail should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Terry McKinney". The signature is written in a cursive, flowing style with a large loop at the end of the last name.

Terry McKinney
General Manager
Benton Utilities
501-776-5984

Cc: File

Meints, Rene

From: Luke Lenard <lennard@mcclelland-engrs.com>
Sent: Wednesday, August 03, 2011 8:41 AM
To: Meints, Rene
Cc: 'Byron Hicks'
Subject: Benton Utilities CAO LIS No. 11-069

Follow Up Flag: Follow up
Flag Status: Completed

Ms. Meints,

Benton Utilities has employed my firm (McClelland Consulting Engineers, Inc.) to develop a continuous CMOM Program. Our contact information is listed below. I am assisting Byron Hicks, P.E., our CEO, with the CMOM. Please feel free to call or e-mail me at any time with questions or concerns.

Thank You,

Luke Lenard, E.I.
Project Engineer



900 W. Markham | Little Rock, AR 72201

P.O. Box 34087 | Little Rock, AR 72203

501.371.0272 office | 501.371.9932 fax

lennard@mcclelland-engrs.com

www.mcclelland-engrs.com