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February 9, 2017

SENT VIA EMAIL & CERTIFIED MAIL

Ms. Sandra Farmer
Enforcement Analyst – Water Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: City of Walnut Ridge
NPDES Permit No.: AR0046566, AFIN 38-00040
Response and Counter Offer to Proposed Consent Administrative Order
Dated November 30, 2016

Dear Ms. Farmer:

The City of Walnut Ridge received a proposed consent administrative order (CAO) on November 30, 2016 via certified mail. An acknowledgement letter was provided to ADEQ on December 20, 2016, requesting additional information to support your findings and proposed civil penalty. A meeting was conducted on January 24, 2017, to discuss your response and our initial position of the findings.

Based upon the aforementioned events the City of Walnut Ridge (Respondent) response and proposed counter offer to the proposed consent administrative order is outlined below.

Item No. 1 – Findings of Fact No. 17:

A telephone conversation was conducted with Ms. Farmer on September 7, 2016, prior to the Corrective Action Plan (CAP) extension deadline. The telephone conversation outlined efforts to date by Walnut Ridge to comply with ongoing violations occurring at the Wastewater Treatment Plant (WWTP). A follow up email was sent on the same day. The email is attached as Exhibit A. In lieu of requesting another extension Ms. Farmer advised me that ADEQ would be taking further action. As such, we collectively scheduled a meeting to discuss the corrective measures to date and next steps forward. The meeting was conducted on September 29, 2016, where a presentation was provided by Crist Engineers and SG Laboratories outlining corrective measures to date.

Walnut Ridge was advised at the September 29 meeting that the Department intended to present a consent administrative order for the corrective action. In lieu of exhausting effort to provide a CAP for the current violations, it was collectively decided and agreed that the CAP would be deferred until the execution of the CAO.

The City of Walnut Ridge asks that the following amendment to the Finding of Facts:

The proposed Finding of Fact No. 17 should be deleted in its entirety and add the following to the Findings of Fact:

The Department advised the Respondent on September 7, 2016, that a consent administrative order would be proposed and to defer the submittal of a corrective action plan until the meeting was conducted at the Department.

A meeting was conducted on September 29, 2016, that presented corrective actions the Respondent was conducting, and a collective decision was made to defer the submission of a corrective action plan requested on May 6, 2016, until the consent administrative order has been duly executed outlining revised submission dates.

Item No. 02 - ADEQ Civil Penalty Calculation Worksheet:

Penalty Adjustments – Avoidability:

The presentation provided to the Department on September 29, 2016, clearly outlined the discovery and presence of Quaternary Ammonia Compounds (Quats) in the biological system of the WWTP. These compounds inhibit the nitrification process at concentration levels between 2 to 5 mg/L, which caused excursions in the discharge parameters. Quats are used in strong disinfectants in nursing homes, restaurants, and hospitals and are not a natural constituent of wastewater.

The Department's position is that the Respondent did not institute reasonable measures to prevent effluent violations. City of Walnut Ridge disagrees with the Department's position and the Value of Adjustment of \$200. The Respondent did not have direct control of the contribution to the collection system through these private entities. The issue was unknown until inhibition started to occur at the WWTP.

The Respondent request the Department to revise the Avoidability Value of Adjustment to \$0.00.

Penalty Adjustment – Management History:

Documentation of the Corrective Action Plan is provided under Item No. 01 above. CAO's issued in 1995, 2000, 2003, 2007, and 2010 have been closed out to the satisfaction of the Department and should not be a part of the requirement in question. Any consideration of prior CAO's should be dismissed for any adjustment consideration. The time line for this requirement is documented in the Findings of Fact, and should the Department agree with Item No. 01 above, adequate management response has been provided. In addition, the Respondent, upon recommendation from Crist Engineers and SG Laboratories began immediate implementation of corrective measures, to include but not limited to installation of a caustic feed system to adjust biomass pH to reduce the Quats. Further, the Respondent visited local hospitals and nursing homes to discuss alternative disinfectants that did not include Quats.

This responsive management approach is the basis of successful compliance from August 2016 to December 2016.

Based upon the aforementioned discussion on Management History, the Respondent requests a reduction of the Value of Adjustment on the Management History from \$200.00 to \$0.00.

Penalty Adjustment – Economic Benefit/Pecuniary Gain:

The Department's position is that the Respondent somehow economically gained by not committing resources to address the requirement. Based upon the discussion above for Avoidability and Management, there was an absolute demonstration of adequate management response by expending funds and resources to hire a professional engineer, a professional scientist, conduct laboratory testing, and the procurement and installation of a chemical feed system to achieve regulatory compliance.

Based upon the aforementioned discussion, the Respondent requests a reduction of the Value of Adjustment on the Economic Benefit/Pecuniary Gain from \$200.00 to \$0.00

Should the Department concur with the requests of the Respondent for the reduction in the Values of Adjustments as presented, the Penalty Calculation for the effluent limit violations would be calculated as follows:

Base Penalty:	\$1,000
Adjustments:	(\$200.00)
Subtotal Adjusted Penalty:	\$800.00
Multi-Day Occurrence Calculation:	7
Days or Occurrences:	\$5,600.00

The Respondent respectfully requests a reduction in the total assessed penalty in the amount of (\$4,200) based upon the response to Item No. 01 and Item No. 02 above for violations of the permitted effluent discharge limits.

The Respondent respectfully requests modification of Paragraph 13 of the Order and Agreement from \$11,400 to \$7,200, a reduction of (\$4,200).

Order and Agreement – Paragraph No. 01:

The Department has requested a compliance schedule not later than December 31, 2018. The Respondent desires to achieve a cooperative effort to resolve the violations for the permitted effluent discharge limits and seek long term compliance. The commitment will be outlined in the Corrective Action Plan to follow the executed CAO.

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Enforcement Analyst – Water Division
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A time period of less than two years is not sufficient as requested by the Department. A typical project schedule is outlined below, assuming federal funding support from USDA/RD.

<u>Description</u>	<u>Days from CAP Approval</u>
Funding Application and Preliminary Engineering Report	365
Design	635
ADEQ Permit	815
Bidding and Award	875
Construction	1,295 (3.6 Years)

The Respondent respectfully requests that compliance deadlines be identified in the Corrective Action Plans to account for the fluid nature of large scale projects, rather than placing a firm date in the Order and Agreement. Should an extension be necessary beyond the control of the Respondent, the amendment can be easily accomplished in the Correction Action Plan. A modification of the Order and Agreement requires public notice in accordance with the Department's regulation causing delay for any adjustment in time.

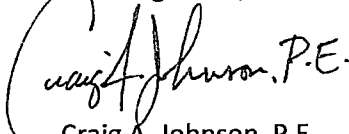
The Respondent respectfully requests the Department to place a compliance dates for the permitted effluent violations in the Corrective Action Plan (CAP) not to exceed three years and seven months from the date of the CAP approval by the Department.

* * * * *

The Respondent respectfully requests these considerations by the Department to provide an amicable and reasonable means to negotiate a successful consent administrative order. We are more than happy to meet with you and staff to further discuss the proposed consent administrative order.

Should you have any questions regarding this correspondence plan please don't hesitate to contact me.

Sincerely,
Crist Engineers, Inc.



Craig A. Johnson, P.E.
Associate

Enclosures: Proposed Draft Consent Administrative Order

Cc: Jon Kopp – Walnut Ridge

Craig Johnson

From: Farmer, Sandra <farmers@adeq.state.ar.us>
Sent: Wednesday, September 07, 2016 2:38 PM
To: Craig Johnson
Cc: Jonathan Kopp (jonathan.kopp@yahoo.com)
Subject: RE: City of Walnut Ridge, AR

Craig,
That's fine. Just send me a copy before the meeting so my manager will be up to speed on what you found. Thanks

Sandra Farmer
Enforcement Analyst

From: Craig Johnson [mailto:cjohnson@crisengineers.com]
Sent: Wednesday, September 07, 2016 2:17 PM
To: Farmer, Sandra
Cc: Jonathan Kopp (jonathan.kopp@yahoo.com)
Subject: City of Walnut Ridge, AR

Sandra – Thank you for speaking to me earlier regarding Walnut Ridge. I don't recall receiving any official notice from ADEQ regarding the CAP extension, but you may have sent to Jon. Nevertheless, I owe you some information regarding moving forward. We are testing for some inhibiting compounds again this week that were prevalent in the biological system in early June. Walnut Ridge did pass their third round of sublethal WET last month. I think we may be close the recovering the biological system. I would like to take a look at the August DMR's and biological testing compiled this week. If okay with you, I would like to present this data at our September 29 meeting. If you would like to see it sooner, please let me know.

Thanks - Craig

Craig A. Johnson, P.E.
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