

**BEFORE THE ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**Secretary**  
**Arkansas Pollution Control and Ecology**  
101 East Capitol, Suite 205  
Little Rock, AR 72201  
Filed \_\_\_\_\_ *9/6/16*

**IN RE: REQUEST BY THE CITY OF HARRISON )**  
**AND THE CITY OF YELLVILLE )**  
**TO INITIATE RULEMAKING TO ) DOCKET NO. 15-002-R**  
**AMEND REGULATION NO. 2 )**

**CITY OF HARRISON**  
**AND CITY OF YELLVILLE'S**  
**STATEMENT OF BASIS AND PURPOSE**

The City of Harrison and the City of Yellville (the Cities) for their Statement of Basis and Purpose, state:

1. The Arkansas Pollution Control and Ecology Commission (APCEC or the Commission) is given the power and duty to promulgate rules and regulations implementing the powers and duties of the Arkansas Department of Environmental Quality (ADEQ or the Department) and APCEC, including regulations prescribing water quality standards (WQS). ARK. CODE ANN. § 8-4-202(a) and (b).

2. ARK. CODE ANN. § 8-4-202(c) provides that any person has the right to petition the APCEC for an amendment of any rule or regulation. On August 5, 2015, the Cities filed their Petition to Initiate Third-Party Rulemaking to Amend APCEC Regulation No. 2. The Cities' Petition was submitted pursuant to, and in compliance with APCEC Regulation No. 2, §§ 2.303 and 2.308, APCEC Regulation No. 8, § 8.809, and the ADEQ's Continuing Planning Process. On August 28, 2015, the APCEC entered Minute Order No. 15-18 granting the Cities' Petition and initiated rulemaking on the changes proposed to Regulation No. 2 by the Cities.

3. Through the Petition Harrison sought modification of the chloride, sulfate and total dissolved solids (TDS) criteria for Crooked Creek from the outfall of Harrison's Wastewater Treatment Plant (the Harrison WWTP) to ADEQ Monitoring Station WHI0193. Yellville sought a modification of the TDS criteria from ADEQ Monitoring Station WHI0193 to the mouth of Crooked Creek.

4. Harrison requested that the Commission amend APCEC Regulation No. 2 to modify the water quality criteria for that portion of Crooked Creek from the outfall of Harrison's WWTP to ADEQ Monitoring Station WHI0193 as follows: chloride from 20 mg/L to 22.6 mg/L; sulfate from 20 mg/L to 24.4 mg/L; and TDS from 200 mg/L to 269 mg/L. Yellville requested that the Commission amend APCEC Regulation No. 2 to modify the water quality criteria for that portion of Crooked Creek from ADEQ Monitoring Station WHI0193 to the mouth of Crooked Creek as follows: TDS from 200 mg/L to 238 mg/L.


5. The Cities' Petition is supported by the following:

- Harrison and Yellville are not seeking a change from historic water quality conditions in Crooked Creek; rather the Cities seek standards that reflect current water quality and which allow them to continue to be compliant with their NPDES Permits while protecting the designated uses for Crooked Creek;
- TDS concentrations upstream of both the Harrison and the Yellville discharge exceed the current site-specific standard of 200 mg/L;
- UAA data established that all sampling locations influenced by Harrison and Yellville's discharges show the presence of ecoregion key and indicator species and species composition consistent with the attainment of Ozark Highlands Ecoregion aquatic life designated use. The requested changes should have no adverse effect on the aquatic life communities;
- Toxicity testing on *Ceriodaphnia dubia* using Harrison and Yellville effluent indicate that there is a low potential for episodes of toxicity due to mineral concentration;

- Setting the chloride, sulfate and TDS at the site-specific levels requested by the Cities in these segments of Crooked Creek should not cause acute or chronic toxicity;
- There is no current economically feasible treatment technology for the removal of the minerals. Reverse osmosis treatment technology does exist; however, this technology is not cost effective and generates a concentrated brine which is environmentally difficult to dispose of. The technology is not required to meet the designated uses and would produce no significant additional environmental protection.
- 40 CFR 131.11(b)(1)(ii) provides states with the opportunity to adopt water quality standards that are “modified to reflect site-specific conditions.”
- The basis for site-specific standards is set forth in 40 CFR 131.10(g)(6) which provides that the state may establish less stringent criteria if controls more stringent than those required by section 301(b) and 306 of the Clean Water Act would result in substantial and widespread economic and social impact.

Respectfully submitted,

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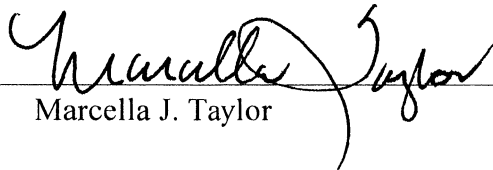
By:   
Marcella J. Taylor, AR Bar No. 82156  
Allan Gates, AR Bar No. 72040

**Counsel for the Cities of Harrison and Yellville**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of September, 2016, I served a copy of the foregoing Statement of Basis and Purpose by electronic service and by U.S. Postal Delivery on the following:

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Marcella J. Taylor