

EXHIBIT F
COMPLIANCE WITH ACT 143 OF 2007

MITCHELL || WILLIAMS

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May 28, 2014

Ms. Patricia Brown
Division Director
Arkansas Economic Development Commission
Arkansas Department of Economic Development
900 W. Capitol Ave.
Little Rock, AR 72201

Re: Economic Impact/Environmental Benefit Analysis
Cities of Harrison and Yellville Wastewater Treatment Plants
Third Party Rulemaking Petition before the Arkansas Pollution Control
& Ecology Commission

Dear Ms. Brown:

Cities of Harrison and Yellville intend to petition the Arkansas Pollution Control & Ecology Commission (APCEC) to amended APCEC Regulation No. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas. A copy of the proposed amendment and the Economic Impact Statement of Proposed Rules or Regulations, EO 05-04: Regulatory Flexibility are attached for your review. Additional documentation, including a copy of the *Use Attainability Analysis Report, Crooked Creek, Boone and Marion Counties* (August 21, 2013) the study supporting the request to amend APCEC Regulation No. 2, is available for your review upon request. This is being submitted to AEDC pursuant to the requirements of Act 143 of 2007.

Harrison and Yellville are not requesting a change to the actual water quality of the affected stream. Rather the water quality standards changes requested by Harrison (modification of the chloride, sulfate and total dissolved solids water quality standards) and Yellville (modification of total dissolved solids water quality standards) for Crooked Creek from the outfall of the Harrison Wastewater Treatment Plant to the mouth of Crooked Creek—reflect current and historic conditions in the affected stream.

There will be no cost to state government associated with the proposed amendment and no regulatory burden such as fees, reporting requirements, or the obtaining of any regulatory permit will be imposed on any small business because of the modification of these minerals standards. The proposed amendment will not create any barrier to entry. No additional requirements will be imposed on any small business by the proposed amendment and no small business will be required to implement any changes because of the proposed amendment. The requested changes will have no impact on any small business. It will impact only Harrison and Yellville.

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Please review the prepared amendment to APCEC Regulation No. 2, and provide your approval of same pursuant to Act 143 of 2007 as amended by Act 809 of 2009.

Should you have any questions regarding this matter or need any further information, please do not hesitate to contact me.

Sincerely,

MITCHELL, WILLIAMS, SELIG,
GATES & WOODYARD, P.L.L.C.

By



Marcella J. Taylor

MJT:ce
Enclosures

cc: The Honorable Charles Moulton (w/encls.)

**ECONOMIC IMPACT STATEMENT
OF PROPOSED RULES OR REGULATIONS
EO 05-04: Regulatory Flexibility**

Department Cities of Harrison & Yellville Wastewater Treatment Plants Division none
Contact Person Marcella J. Taylor Date June 12, 2014
Contact Phone (501) 688-8851 Contact Email mtaylor@mvlaw.com

Title or Subject: Petition to Amend Arkansas Pollution Control & Ecology Commission Regulation No. 2, Arkansas Water Quality Standards

Benefits of the Proposed Rule or Regulation

1. Explain the need for the proposed change(s). Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints.
 - The Cities of Harrison and Yellville Wastewater Treatment Plants seeks to have certain water quality criteria in Arkansas Pollution Control & Ecology Commission (APCEC) Regulation No. 2 amended to reflect the historical and current levels of chloride, sulfate and total dissolved solids in Crooked Creek. Harrison seeks modification of the chloride, sulfate and total dissolved solids criteria from the outfall of the Harrison Wastewater Treatment Plant to ADEQ monitoring station WHI0193. Yellville seeks modification of the total dissolved solids criteria from ADEQ monitoring station WHI0193 to the mouth of Crooked Creek. This proposed change is needed to reflect actual conditions and to allow the Cities to be in compliance with the terms of their NPDES permits.
 - No complaints motivated The Cities to seek amendment of APCEC Regulation No. 2.
2. What are the top three benefits of the proposed rule or regulation?
 - Revised water quality criteria which reflect actual conditions
 - Revised water quality criteria which are protective of the receiving streams,
 - Compliance with the current and anticipated NPDES permit limits by the Cities.
3. What, in your estimation, would be the consequence of taking no action, thereby maintaining the status quo?
 - If no action is taken to amend the water quality criteria future non-compliance with either NPDES permit limitations or the current stringent water quality criteria would force the Cities and their ratepayers to expend hundreds of thousands, if not millions, of dollars for treatment of its effluent water. Such expenditures would not result in more protective downstream water quality or aquatic life conditions.
4. Describe the market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason(s) for not selecting those alternatives.

The alternatives for management of effluent with elevated dissolved minerals are limited--reverse osmosis (RO), pumping the wastewater to a larger stream with the potential for dilution of the minerals, and treatment via a constructed wetland.

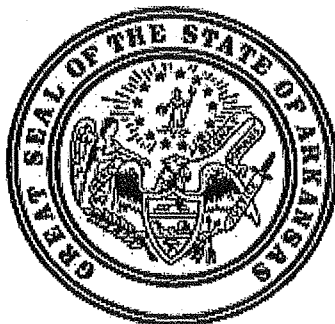
- Use of a constructed wetland was excluded because it would reduce only the sulfate and have no effect on the constituents of TDS which comprise 54% of the TDS discharged by the Harrison WWTP and 79% of the TDS discharged by the Yellville WWTP.
- Building a pipeline and pumping the Cities' discharges to a larger stream was evaluated. The only large river which could potentially serve as a receiving stream is the White River which is 30 miles away from Harrison and 8 miles away from Yellville. This alternative would involve an initial cost of \$24,000,000 for Harrison which annual operating cost of \$150,000. The cost for Yellville would be an initial outlay of \$3,400,000 with annual operating cost of \$100,000.
- Use of RO was likewise evaluated. Aside from the fact that the technology generates concentrated

brine of which it is environmentally difficult and costly to dispose, RO is economically infeasible. The estimated capital cost of RO for the City of Harrison and its ratepayers is \$5,600,000 with annual operating costs of \$4,900,000. The estimated capital cost of RO for the City of Yellville and its ratepayer is \$2,250,000 with annual operating costs of \$660,000.

Impact of Proposed Rule or Regulation

5. Estimate the cost to state government of collecting information, completing paperwork, filing, recordkeeping, auditing and inspecting associated with this new rule or regulation.
 - There is no cost to state government associated with this proposed new rule.
6. What types of small businesses will be required to comply with the proposed rule or regulation? Please estimate the number of small businesses affected.
 - There are no additional requirements for any small business due to this rule change. Further, any small business which could potentially be required to comply with the proposed rule or regulation is already being required to comply with the current more stringent water quality criteria for the affected stream.
7. Does the proposed regulation create barriers to entry? If so, please describe those barriers and why those barriers are necessary.
 - The proposed regulation does not create any barriers to entry.
8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance.
 - There are no additional requirements with which small business owners will have to comply.
9. State whether the proposed regulation contains different requirements for different sized entities, and explain why this is, or is not, necessary.
 - The proposed regulation does not contain different requirements for different sized entities.
10. Describe your understanding of the ability of small business owners to implement changes required by the proposed regulation.
 - No small business owners will be required to implement changes because of the proposed regulation.
11. How does this rule or regulation compare to similar rules and regulations in other states or the federal government?
 - Both federal environmental laws and the environmental laws of most, if not all, states provide for the establishment and amendment of water quality criteria, not only by the federal and state agencies, but also by third party petition. This proposed regulation amendment would therefore be comparable to water quality standards in other states.
12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule or regulation.
 - The Cities are not agencies and have not yet received any input about the proposed rule or regulation. APCEC Regulation No. 8 and Ark, Act 143 of 2007 require the submission of this information to ADEC prior to the filing of a third-party petition to initiate the rulemaking. Public input will come about during the public comment period once the APCEC initiates the rule-making.

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



REGULATION NO. 2

REGULATION ESTABLISHING WATER QUALITY STANDARDS FOR SURFACE WATERS OF THE STATE OF ARKANSAS

INITIAL DRAFT

Submitted to the Arkansas Pollution Control and Ecology Commission on _____, 2014

<u>Stream</u>	<u>Concentration-mg/L</u>		
	<u>Cl⁻</u>	<u>SO₄⁼</u>	<u>TDS</u>
Unnamed trib)			
Unnamed trib to Big Creek	71	60	453
Lost Creek Ditch	20	30	270
Little Red River (including Greers Ferry Reservoir)	20	30	100
Black River	20	30	270
Strawberry River	20	30	270
Spring River	20	30	290
Eleven Point River	20	30	270
Stennitt Creek	ER	ER	456*
South Fork Spring River	20	30	270
Myatt Creek	20	30	270
Current River	20	30	270
White River (Dam #3 to Missouri line, including Bull Shoals Reservoir)	20	20	180
Buffalo River	20	20	200
<u>Crooked Creek (Harrison WWTP outfall to Monitoring Station WHI0193)</u>	<u>22.6</u>	<u>24.4</u>	<u>269</u>
<u>Crooked Creek (Monitoring Station WHI0193 to the mouth)</u>	20	20	<u>238</u>
White River (Missouri line to headwaters, including Beaver Reservoir)	20	20	160
Kings River	20	20	150
West Fork White River	20	20	150
St. Francis River Basin			
St. Francis River (Mouth to 36° N. Lat.)	10	30	330
L'Anguille River	20	30	235
Tyronza River (headwaters to Ditch No. 6 confluence)	20	30	350
Ditch No. 27	ER	480	1200
Ditch No. 6 (mouth to Ditch No. 27 confluence)	ER	210	630
Tyronza River (mouth to Ditch No. 6 confluence)	20	60	350
Little River	20	30	365
Pemiscot Bayou	20	30	380
St. Francis River (36° N. Lat. to 36° 30' N. Lat.)	10	20	180
Ouachita River Basin			
Bayou Bartholomew	50	20	500
Chemin-A-Haut Creek	50	20	500
Overflow Creek	20	30	170
Bayou Macon	30	40	330
Boeuf River	90	30	460
Big Cornie Creek	230	30	500
Little Cornie Creek	200	10	400
Three Creeks	250	10	500
Little Cornie Bayou	200	20	500
Unnamed trib from GLCC 003	538*	35*	519*
Unnamed trib to Little Cornie Bayou	305*	ER	325*
Little Cornie Bayou from unnamed trib to State Line	215*	25*	500*
Walker Branch	180*	ER	970*

Seasonal Ozark Highlands aquatic life use - all streams with watersheds of less than 10 mi² except as otherwise provided in Reg. 2.505

Perennial Ozark Highlands aquatic life use - all streams with watersheds of 10 mi² and larger and those waters where discharges equal or exceed 1-cfs

*As designated in the National Wild and Scenic Rivers System

**Except for those waters with designated use variations supported by Use Attainability Analysis or other investigations.

Site Specific Designated Use Variations Supported by Use Attainability Analysis or Other Investigations

- Railroad Hollow Creek - no fishable/swimmable uses (OH-1, #1)
- Columbia Hollow Creek - seasonal aquatic life use March-June (OH-1, #2)
- Curia Creek - below first waterfall, perennial aquatic life use (OH-4, #3)
- Moccasin Creek - below Arkansas Highway 177, perennial aquatic life use (OH-3, #4)
- Stennitt Creek- from Brushy Creek to Spring River, no domestic water supply use (OH-4, #6)

SPECIFIC STANDARDS: OZARK HIGHLANDS ECOREGION
(Plates OH-1, OH-2, OH-3, OH-4)

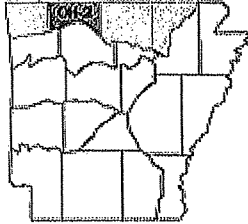
	<u>Streams</u>		<u>Lakes and Reservoirs</u>
Temperature °C (°F)*	29 (84.2)		32 (89.6)
Trout waters	20 (68)		
Turbidity (NTU) (base/all)	10/17		25/45
Minerals	see Reg. 2.511		see Reg. 2.511
Dissolved Oxygen**	<u>Pri.</u>	<u>Crit</u>	see Reg. 2.505
<10 mi ² watershed	6	2	
10 to 100 mi ²	6	5	
>100 mi ² watershed	6	6	
Trout waters	6	6	

All other standards (same as statewide)

Site Specific Standards Variations Supported by Use Attainability Analysis

- Railroad Hollow Creek: from headwaters to Spavinaw Creek - year-round dissolved oxygen - 2 mg/L (OH-1, #1)
- Curia Creek - below first waterfall, critical season dissolved oxygen 6 mg/L (OH-4, #3)
- Moccasin Creek - below Highway 177, critical season D.O. 5mg/L (OH-3, #4)
- SWEPKO Reservoir - maximum temperature 54°C (limitation of 2.8°C above natural temperature does not apply) (OH-1, #5)
- Stennitt Creek - from Brushy Creek to Spring River, total dissolved solids = 456 mg/L (OH-4, #6)
- Crooked Creek - from Harrison WWTP outfall to ADEQ Monitoring Station WHI0193: chloride 22.6 mg/L, sulfate 24.4 mg/L; TDS 269 mg/L (OH-2, #7)**
- Crooked Creek - from ADEQ Monitoring Station WHI0193 to mouth: TDS 238 mg/L (OH-3, #8)**

Plate OH-2 (Ozark Highlands)



LEGEND

- - - Extraordinary Resource Waters
- * * * Natural and Scenic Waterways
- ▣ Variation by UAA
- ▨ Ecologically Sensitive Waterbodies
- ▩ ESW Caves, Springs, and Soaps
- ▬ Trout Waters

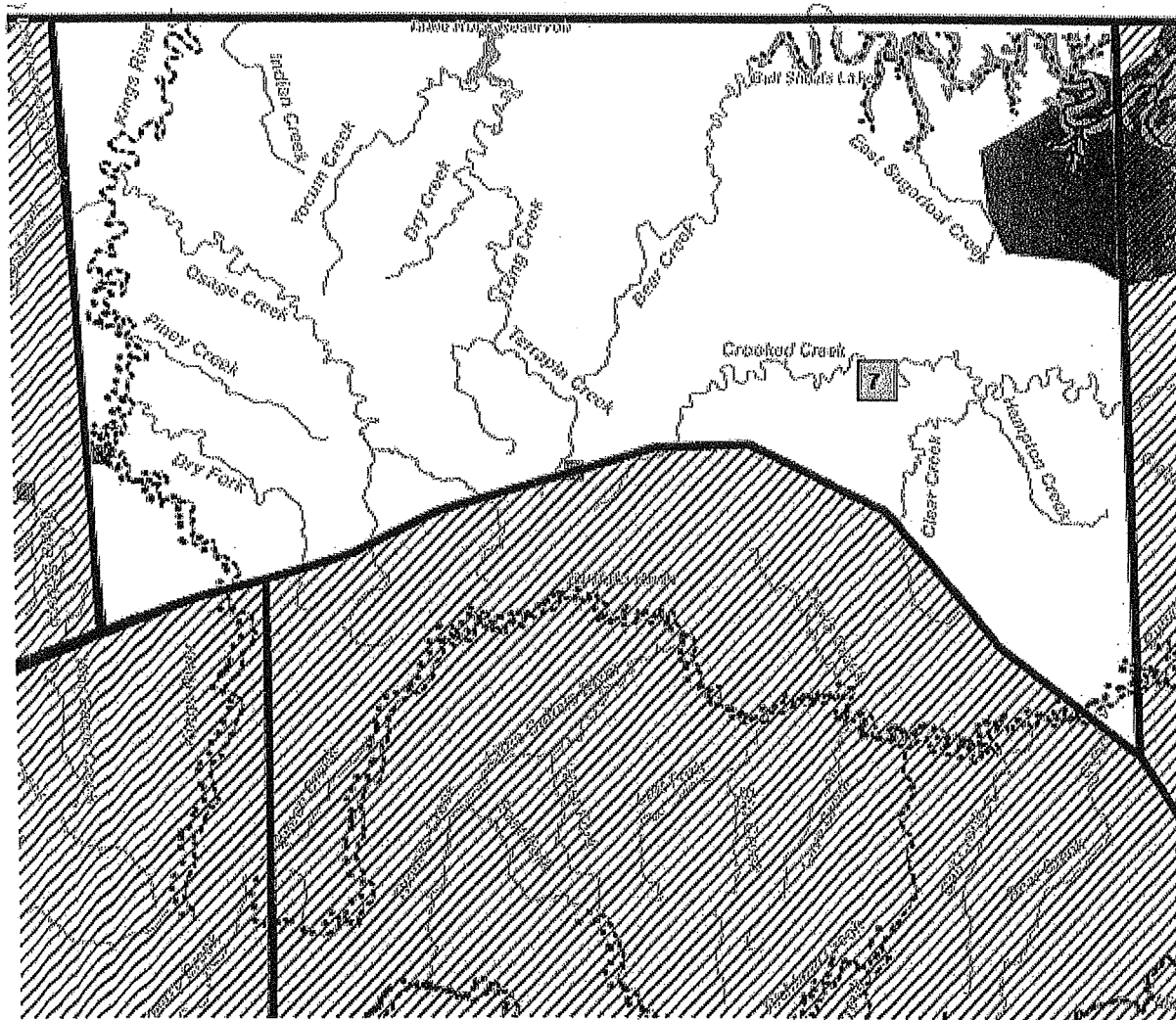
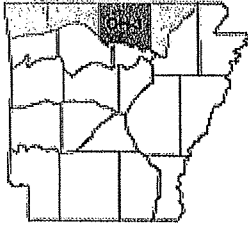


Plate OH-3 (Ozark Highlands)



LEGEND	
	Extraordinary Resource Waters
	Natural and Scenic Waterways
	Variation by UAA
	Ecologically Sensitive Watersheds
	ESW Canals, Springs, and Slopes
	Trout Waters

