

CITY OF MOUNTAIN VIEW

November 15, 2018

City of Mountain View
PO Box 360
Mountain View, AR
72560
870-269-3804

City Hall
311 West Main Street
Mountain View, AR
72560

City Council Meeting Room
Central Fire Station
205 N. Bayou Drive
Mountain View, AR
72560

Roger Gardner, Mayor
City Hall
870-269-3804

Peggy Lancaster
City Clerk/Treasurer
City Hall
870-269-3804

cityclerkmntnview@gmail.com

MINUTE ORDER

The following is an excerpt from the Minutes of the Mountain View City Council Meeting held on November 13, 2018, at the Central Fire Station, 205 N. Bayou Drive, Mountain View, Arkansas.


MOTION to approve the revised Consent Administrative Order (CAO) from the Arkansas Department of Environmental Quality (ADEQ), NPDES Permit NO., AR0020117, AFIN: 69-00011, dated October 29, 2018

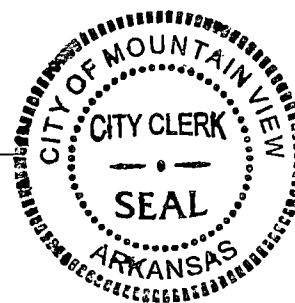
Made by: Truman Bullard
Seconded by: Dana Woods

Vote Aye: Shuttleworth, Stevens, Williams, Bullard, Woods

Vote Nay: Cindy Hubberd (absent)

Motion Carried


Peggy Lancaster, CMC/CAMC
Mountain View City Clerk/Treasurer



Made by: Bruce Stevens
Seconded by: Ricky Shuttleworth

Vote Aye: Shuttleworth, Stevens, Williams, Bullard, Woods

Vote Nay: Cindy Hubberd (absent)

Motion Carried.

VI. Water Department:

1. Sewer Plant Consent Administrative Order – ADEQ

Mayor Gardner received the revised Consent Administrative Order (CAO) from Arkansas Department of Environmental Quality (ADEQ), NPDES Permit No. AR0020117, AFIN: 69-00011, dated October 29, 2018. The Mayor reviewed the changes with the Council. A copy of the revised CAO was included in the Agenda Packet for this meeting. There was discussion.

MOTION to approve the revised Consent Administrative Order (CAO) from Arkansas Department of Environmental Quality (ADEQ), NPDES Permit No., AR0020117, AFIN: 69-00011, dated October 29, 2018

Made by: Truman Bullard
Seconded by: Dana Woods

Vote Aye: Shuttleworth, Stevens, Williams, Bullard, Woods

Vote Nay: Cindy Hubberd (absent)

Motion Carried.

2. MCE Work Order No. 22 - Sarah Lane Water Extension

Mayor Gardner requested McClelland Engineering (MCE) to review the Sarah Lane Water Extension project, and submit a Work Order for the engineering services on that project. MCE submitted Work Order No. 22 Sarah Lane Water Extension. MCE Work Order No. 22 has Task No. 1 for Topographic Survey and Design Services listed as hourly not to exceed \$8,200.00, and Task 2 Services During Construction as hourly based on their Exhibit A "Standard Hourly Rates as of January 1, 2018", which was attached to the Work Order. A copy of MCE Work Order No. 22 was included in the Agenda Packet for this meeting. The invoices for MCE Work Order No. 22 will be paid from the 2014 Water Construction Fund. There was discussion.

MOTION to approve McClelland Engineering Work Order No. 22 Sarah Lane Water Extension Project (to be paid from the 2014 Water Construction Fund)

ADEQ

ARKANSAS
Department of Environmental Quality

October 29, 2018

CERTIFIED MAIL: 9489 0090 0027 6022 2319 78

Honorable Roger Gardner, Mayor
City of Mountain View
P.O. Box 360
Mountain View, AR 72560

**RE: NPDES Permit No. AR0020117, AFIN: 69-00011
REVISED PROPOSED CONSENT ADMINISTRATIVE ORDER**

Dear Mayor Gardner:

On July 19, 2018, the Arkansas Department of Environmental Quality (ADEQ) issued a proposed Consent Administrative Order (CAO) to the City of Mountain View. On September 6, 2018, the City of Mountain View requested minor language changes and extensions of the final compliance dates. After careful consideration, ADEQ is willing to offer the attached CAO.

Enclosed is a copy of the revised CAO in this matter. If you choose to accept the terms of the CAO, with the suspended penalty of \$8,950.00, please sign, date, and **return the original, embossed copy** to the address below **within (20) calendar days** of receipt of this letter. 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 Mountain View must also be submitted. Subsequently, the Director of ADEQ 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.

Failure to contact the ADEQ, Office of Water Quality, Enforcement Branch in response to this CAO **within (20) calendar days** of receipt of this letter, will constitute rejection of the settlement offer and unilateral enforcement action may proceed through a Notice of Violation (NOV). Should you wish to discuss this matter further, you may contact me at (501) 682-0639, or you may e-mail bailey.taylor@adeq.state.ar.us.

Sincerely,



Bailey Taylor
Enforcement Coordinator
Office of Water Quality

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Mountain View
P.O. Box 360
Mountain View, AR 72560

LIS No. 18-
Permit No. AR0020117
AFIN 69-00011

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 the regulations issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the City of Mountain View (“Respondent”) and the Arkansas Department of Environmental Quality (ADEQ or “Department”), 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 wastewater treatment facility (“facility”) located at 340 Westwood Avenue, Mountain View, Stone County, Arkansas.
2. Respondent discharges treated wastewater to Hughes Creek, then to Tubbs Creek, then to Lick Fork Creek, then to South Sylamore Creek, then to the White River in Segment 4F of the White River Basin.
3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

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. ADEQ is authorized under the Arkansas Water and Air Pollution Control Act (“the Act”) to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an 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, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].

7. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes ADEQ 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 regulation 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. NPDES Permit Number AR0020117 (“Permit”) was issued to Respondent on July 15, 2013, with an effective date of August 1, 2013, and an expiration date of July 31, 2018. The Permit was renewed on June 29, 2018, with an effective date of August 1, 2018, and an expiration date of July 31, 2023.

10. On August 3, 2015, the Department requested a Corrective Action Plan (CAP) from Respondent to address effluent violations and Sanitary Sewer Overflows (SSOs).

11. On August 13, 2015, Respondent submitted a CAP. The CAP stated Respondent would address the effluent violations by installing an aerobic digester and that the facility is working towards collection system repairs.
12. On September 28, 2015, the Department notified Respondent that the CAP dated August 13, 2015, was approved, and requested that Respondent submit bi-monthly progress reports until the final compliance date of March 5, 2016.
13. On October 27, 2015, January 5, 2016, and March 1, 2016, the Department received progress reports from Respondent.
14. On March 23, 2017, the Department conducted a Reconnaissance Inspection of the facility in response to a complaint. The inspection revealed the following:
 - a. An SSO occurred on or about March 18, 2017, that impacted waters of the state, specifically Whitewater Creek. Respondent did not report the SSO until March 21, 2017. This is a violation of Part II, Condition 5 of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).
15. On April 13, 2017, Respondent submitted a response to the March 23, 2017 inspection. On May 17, 2017, the Department notified Respondent that the response dated April 13, 2017, was sufficient to address the violation noted in the inspection report.
16. On June 16, 2017, the Department requested an update on the August 13, 2015 CAP due to continued effluent violations and SSO reports.
17. On July 11, 2017, Respondent submitted an update stating that the digester construction was complete as of January 5, 2017, and Respondent has continued to make collection system repairs. On July 19, 2017, the Department notified Respondent that the updated CAP dated July

11, 2017, was adequate, and the Department requested that Respondent submit a milestone schedule with a final date of compliance and quarterly progress reports.

18. On September 15, 2017, Respondent submitted a progress report stating that Respondent had scheduled an inspection and evaluation of the treatment processes and test sampling at the facility. Respondent also reported that smoke testing of the collection system was scheduled for November 2017.

19. On November 21, 2017, the Department conducted a Compliance Evaluation Inspection and SSO/Collection System Inspection of the facility. The inspection revealed the following:

- a. Respondent is only collecting three (3) effluent portions for the composite sample as 3-hour composite. Part IV Condition 8 of the Permit, as referenced by Part 1 Section A, requires a minimum of four (4) effluent portions collected at equal time intervals during operational hours for a composite sample. This is a violation of Part I, Section A of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).
- b. Respondent is using chlorine to clean the clarifier of algae. Respondent does not collect samples for Total Residual Chlorine (TRC), and therefore has not demonstrated that chlorine is not discharged at toxic levels. This is a violation of Part III, Section A, Condition 4 of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).
- c. The following are violations of Part III, Section B, Condition 1.A of the Permit and therefore are violations of Ark. Code Ann. § 8-4-217(a)(3).
 - i. Evidence of sludge overflow by the clarifier;

- ii. Excessive Inflow and Infiltration (I&I) within the collection system is causing hydraulic overloading as noted during the inspection. Excessive I&I is not allowing the facility to maintain an adequate sludge blanket in the clarifier.
 - iii. Emergency contact information was not posted at the lift stations;
 - iv. There were no visual or audible alarms at the lift stations; and
 - v. There was not an electrical hook-up capability at the lift stations to allow for generators.
- d. Solid pollutants, which will cause obstruction to the flow, are being introduced into the collection system by the county jail. This is a violation of Part II, Condition 7 of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3). Respondent should require the county jail to install pretreatment to prevent sewer line clogging.

20. On December 19, 2017, the Department notified Respondent of the inspection results. On December 29, 2017, the Department received Respondent's response to the violations cited in the inspection report.

21. On January 29, 2018, the Department notified Respondent that the inspection response dated December 29, 2017, was inadequate and that a complete response was due to the Department by February 12, 2018.

22. On February 9, 2018, Respondent submitted a response stating that work to address the I&I issues would be completed in the summer of 2019.

23. On April 10, 2018, the Department and Respondent met to discuss the findings of the inspection conducted on November 21, 2017 and resolving the I&I issues.

24. The Department conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by Respondent in accordance with the Permit. The review revealed that Respondent reported the following violations of the permitted effluent discharge limits detailed in Part I, Section A of the Permit from February 1, 2015 through February 28, 2018:

- a. Four (4) violations for Fecal Coliform;
- b. Seven (7) violations for Ammonia Nitrogen; and
- c. Two (2) violations for Dissolved Oxygen.

25. Each of the thirteen (13) discharge limitation violations listed in Paragraph 24 above constitutes a separate permit violation for a total of thirteen (13) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

26. Respondent reported twenty-seven (27) SSOs from February 1, 2015 through February 28, 2018. SSOs are a violation of Part II, Condition 5 of the Permit. Respondent is permitted to discharge treated municipal wastewater from its facility. Respondent is not permitted to discharge untreated wastewater from its collection system. Each SSO constituted an unpermitted discharge. Each SSO violated Part II, Condition 5 of the Permit and 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. Respondent shall, within ninety (90) calendar days of the effective date of this Order, submit to ADEQ, for review and approval, a comprehensive CAP developed by a Professional Engineer licensed in the state of Arkansas. The CAP shall, at minimum, detail the methods and best available technologies that will be used to correct the violations listed in Findings of Fact Paragraphs 19 and 24 and prevent future violations and include a reasonable milestone schedule

with a date of final compliance no later than December 31, 2020. Upon review and approval by ADEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date contained in the approved CAP. The milestone schedule and final compliance date shall be fully enforceable as 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 compliance with the final permitted effluent limits of the Permit. Respondent shall submit the final compliance report by December 31, 2020.

3. Respondent shall, within thirty (30) calendar days of the effective date of this Order, submit to ADEQ, for review and approval, a Collection System Plan. The Plan shall detail the steps and associated dates to complete a comprehensive Sanitary Sewer Flow Monitoring and Infiltration and Inflow Study (“Study”) developed by a Professional Engineer licensed in the state of Arkansas. The Study shall include, at minimum, a baseline for sanitary sewer flows, rainfall monitoring, an estimate of available sewer capacity, identification of sources of I&I, an estimation of I&I, and a plan and milestone schedule for reducing I&I with a date of final compliance no later than December 31, 2025. The Study will include the two-year, 24-hour storm event as the basis for design. The Study shall detail the methods and best available technologies that will be used to correct the violations listed in Findings of Fact Paragraph 26 and prevent future violations. Upon review and approval by ADEQ, Respondent shall comply with the terms, milestone schedule, and final compliance date of December 31, 2025. The milestone schedule and final compliance date shall be fully enforceable as terms of this Order.

4. On or before the fifteenth (15th) day of the month following ADEQ's approval of the Study, 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 compliance with Part II, Condition 5 of the Permit. Respondent shall submit the final compliance report by December 31, 2025.

5. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of Eight Thousand Nine Hundred Fifty Dollars (\$8,950.00) of which Eight Thousand Nine Hundred Fifty Dollars (\$8,950.00) shall be conditionally SUSPENDED by ADEQ. The suspension and dismissal of civil penalties is contingent upon the Respondent complying with the terms of this Order. If Respondent fully complies with this Order, the suspended civil penalty of Eight Thousand Nine Hundred Fifty Dollars (\$8,950.00) shall be DISMISSED by ADEQ. If Respondent violates any term of this Order, the full balance of Eight Thousand Nine Hundred Fifty Dollars (\$8,950.00) shall become due immediately and payable to ADEQ. In the event that Respondent fails to pay the civil penalty within the prescribed time, ADEQ shall be entitled to attorneys' fees and costs of collection.

6. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If Respondent should fail to meet any such requirements or deadlines, Respondent consents and agrees to pay on demand to ADEQ stipulated penalties according to the following schedule:

- a. First day through 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 ADEQ by reason of failure by Respondent to comply with the requirements of this Order.

7. 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 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 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.

8. ADEQ 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 ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

9. All requirements by the Order and Agreement are subject to approval by ADEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by ADEQ, submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies. Failure to respond

adequately to such Notice of Deficiency within the timeframe specified in writing by ADEQ constitutes a failure to meet the requirements established by this Order.

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) calendar 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 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 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.

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

12. 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.

13. The City Council of Respondent has authorized the Mayor and City Clerk/Treasurer to sign this Order on behalf of Respondent. See Exhibit A.

14. 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 _____ DAY OF _____, 2018.

BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Mountain View

BY: Roger Gardner
(Signature)

Roger Gardner
(Typed or printed name)

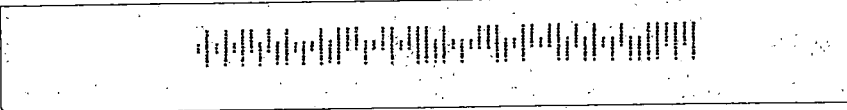
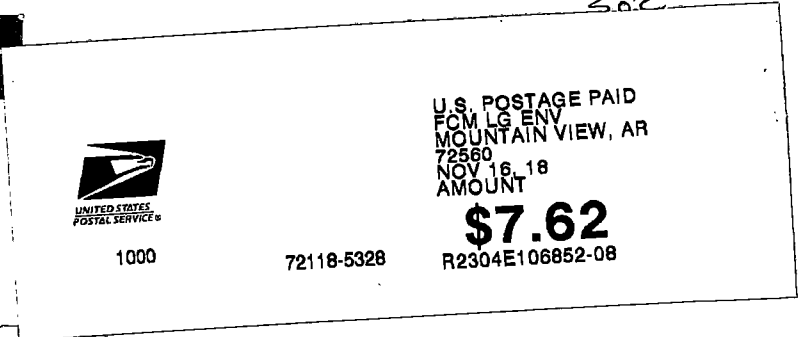
TITLE: Mayor

DATE: 11-15-18

Attest:
Peggy Lancaster
City Clerk/Treasurer



City of Mountain View
P.O. Box 360
Mountain View, AR 72560



**RETURN RECEIPT
REQUESTED**

A.D.E.Q.
Arkansas Dept. of Environmental Quality
5301 Northshore Drive
N. Little Rock, AR 72118-5317
Enf Water - Taylor