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March 2, 2015

Ms. Jacqueline Trotta
Enforcement Analyst
Water Division Enforcement Branch
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

Re: CAO-LIS-08-083
AFIN 32-00044

Dear Ms. Trotta:

In response to your e-mail dated December 3, 2014 to Mr. Eugene Townsley, Batesville Wastewater Treatment Plant manager, and after discussing the matter with the City's consulting engineer, we submit this progress report on the items listed in the City's Milestone Schedule dated December 12, 2011.

The discussion of our progress is presented with reference to the enumerated items in your December 3, 2014 e-mail to Mr. Townsley.

Significant progress has been made on each Milestone item; the work is being undertaken in a sequence intended to achieve the most timely and significant impact toward compliance with the issues listed in the findings of fact in the CAO as follows:

- noncompliance of the NPDES permit at the wastewater treatment plant
- hydraulically overloaded wastewater treatment plant
- sewer system overflows (SSO's)

MAIN PUMP STATION CONSTRUCTION

Item number five in your December 3, 2014 e-mail sets out Main Pump Station Construction. Construction of the main pump station is embedded into construction contracts related to the construction of new and larger wastewater treatment facilities at the existing plant. Contract Section 1 (CS1) was bid in December 2009. It encompassed the construction of a tunnel and large diameter sewer lines ranging from 36 inches in diameter to 60 inches in diameter from near the existing main pump station to the wastewater treatment plant. A second item of work consisted of building a concrete structure which would become an integral part of the new main pump station at the upgraded wastewater treatment plant. Because of funding constraints it was necessary to divide the construction of the new main pump station into two different contract sections utilizing two different contractors.

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The tunnel construction and the main structure of the new pump station were designated as Contract Section 1 (CS1). A Notice to Proceed was issued for CS1 on February 22, 2010. The contract was to be substantially complete by February 11, 2012 and final completion was to be achieved by April 11, 2012.

The construction of the balance of the wastewater treatment plant facilities was bid in June 2011. A different contractor than that for CS1 was the low bidder and that contractor for Contract Section 2 (CS2) was given a Notice to Proceed on August 1, 2011. Subsequent to the commencement of work several change orders have been issued.

The contractor for CS1 did not meet the schedule for completing construction in a timely fashion and its continued presence at the work site began to interfere with the work to be done by the CS2 contractor. In order to keep the work on schedule, the City terminated the contract of the CS1 contractor in September 2012. The final construction cost of the CS1 contract was \$5,472,750. A copy of the final payment document is enclosed.

The City negotiated a change order with the contractor for CS2 to take over the remaining work that needed to be completed under CS1. Upon successful negotiation of the change order, the contractor for CS2 had full control of all construction activities required at the existing wastewater treatment plant and was responsible for the completion of the main pump station. In the summer of 2014, it came to the City's attention that some of the contractor's work was not acceptable and the City issued the CS2 contractor a Notice of Termination on July 9, 2014. Pursuant to the terms of the contract between the parties, counsel for the CS2 contractor demanded the right to be permitted to return to the work site to cure the alleged defaults. The contractor returned to the jobsite on July 21, 2014 and undertook the work. As late as November 2014, the CS2 contractor assured the City that the work would be completed by December 24, 2014.

We are providing this information about the City's relationship with its contractors to show that the City tracks the work of the contractors and has, within the limits of the ANRC-approved contracts, kept the contractors "feet to the fire" in order to stay on time and within budget.

The Contract Section 2 work is divided into two distinct facilities, Schedule A and Schedule B. *Schedule A* consist of the remaining items to complete construction of the new main pump station and related facilities at the front end of the wastewater treatment plant. *Schedule B* consists of totally new wastewater treatment facilities approximately 0.6 miles to the east, on the other side of the City's existing wastewater treatment lagoons. These Schedule B facilities must be completed prior to placing the Schedule A facilities, including the new main pump station, into full-service. The total cost of CS2 is approximately \$28.5 million. A copy of the latest partial payment estimate and graphs showing the CS2 contractor's progress is enclosed.

MAINLINE CONSTRUCTION

Item number four in your December 3, 2014 e-mail sets out mainline construction. The mainline construction for the City of Batesville rehabilitation project related to this consent administrative order consists of three distinct construction projects. The first project consisted of the Contract Section 1 work which included the construction of the tunnel and 36 inch through 60 inch mainline sewer construction. This work was completed in September 2012; however the mainline sewer and new main pump station cannot be placed into service until the construction is completed for both Schedules A & B. The mainline construction in CS1 completed the major mainline construction required to transport wastewater flows around the existing main pump station which is not able to pump all flows coming to the wastewater treatment plant.

A second mainline construction was required in Basin 5, identified in the comprehensive sewer system survey. Several of the mainlines in this basin required extensive rehabilitation and it was the City's considered judgment that it would be prudent to replace the lines and up-size them to carry projected hydraulic loads rather than try to patch them. Bids were taken for these facilities in October 2012 and the work was completed in September 2014 at a construction cost of \$1,442,000. This project also consisted of the reconstruction of an inverted siphon and reconstruction of severely damaged sewer lines in Basin 14 in the northern part of the City which were originally scheduled for rehabilitation. A copy of the plans of record and final payment estimate for this completed project are submitted as an attachment to this letter report.

The remaining mainline construction will be performed pursuant to Contract Section 3 (CS3). Contract Sections 1 and 2 have been financed through the revolving loan fund program of Arkansas Natural Resources Commission (ANRC). Contract Section 3 is also scheduled to be funded with a continuation of the revolving loan through ANRC. The plans for CS3 were submitted to regulatory agencies for review on March 14, 2014 and were subsequently approved by the Arkansas Department of Health on May 27, 2014 and by ANRC on June 3, 2014. Subsequent to completion of those plans, a major industry along the route of the mainline bought property for a major expansion that conflicts with existing plans. Route changes and revisions of the plans are underway. The City is now in the process of procuring rights-of-way, utility crossing permits and environmental regulatory permits for the project. The rights-of-way and permits for every component of the Contract Section 3 construction must be procured and approved before ANRC will allow the City to solicit bids for construction of the project.

Because of the delay regarding receiving the necessary rights-of-way and permits, Contract Section 2 may be completed before the Contract Section 3 work is at a point where wastewater from the Batesville wastewater collection system could be transported through the new lines built under Contract Section 1 and Contract Section 3 to the new facilities and main pump station at the wastewater treatment plant. However, placing CS1 lines in service after CS2 work is completed would make construction of the upstream facilities in CS3 very difficult and would cause delay of the CS3 work. The delay of the CS3 construction would require taking the water treatment plant out service because the backwash facilities would have no place to discharge. Taking the plant out of service is unacceptable; therefore, the City decided to construct a portion of the CS3 project which is approved and totally contained on city-owned property, in order to facilitate placing the CS1 pipelines into service upon completion of Contract Section 2. The portion of Contract Section 3 that was constructed was called CS3T and a bid was negotiated on October 23, 2014. The Notice to Proceed for CS3 was issued on November 10, 2014 and construction was substantially complete on December 30, 2014. The City constructed this work outside revolving loan fund program and the cost to the City was approximately \$300,000. When the Contract Section 2 facilities

are completed, the contractor for CS3T will divert the flow from the existing sewer lines that flow to the existing main pump station to the new sewer lines constructed under Contract Section 1 and then to the new facilities of Schedule A of Contract Section 2.

The completion of Contract Section 2 and the diversion of the existing flows to the new Contract Section 1 lines will remove the bottleneck (the existing old main pump station) that impedes the transport of high flows to the wastewater treatment facility. The completion of construction of the Contract Section 2 facilities and the CS3T facilities should mitigate many overflows occurring within the wastewater collection system. The future construction of the remaining Contract Section 3 mainline construction should mitigate any remaining overflows that could occur within the context of the design storm for the facilities. The current opinion of probable construction cost for the CS3 main lines is approximately \$8,000,000.

SEWER SYSTEM REHABILITATION BY CONTRACT

Item 1 of your December 3, 2014 e-mail referred to sewer system rehabilitation by contract. The City has completed a set of plans for sewer system rehabilitation. After the completion of the sewer system modeling and the subsequent completion of the Contract Section 3 plans and the Basin 5 interceptor sewer construction, it became apparent that a substantial amount of sewer system rehabilitation would be unnecessary, because most of the mainline construction eliminated many sewer line and manhole rehabilitation requirements. A set of 11 x 17" drawings are included which shows the extent of Contract Section 3 and Basin 5 mainline construction. On these plan sheets we have noted the sewer system rehabilitation that is no longer necessary because of the construction or planned construction of these mainlines through contract. In addition the City has chosen to perform other sewer line replacements which will also eliminate previously proposed sewer system rehabilitation. The City proposes to delay sewer system rehabilitation by contract until the bids are taken for completing Contract Section 3 mainline construction. This will establish the remaining funds available from the ANRC revolving loan, and that will determine the extent of the sewer system rehabilitation that will be achieved by contract.

REHABILITATION OF PRIVATE SERVICE LINES

Item number three of your December 3, 2014 e-mail identifies Rehabilitation of Private Service Lines. Table 1 is attached which sets out the Status of Private Service Lateral Rehabilitation. The City of Batesville has completed rehabilitation codes number 3340 and 3330. The City is in the process of completing codes 3350, 3390 and 3360. The City is also in the process of preparing notices to property owners for the completion of rehabilitation codes 3360 and 3400.

SEWER SYSTEM REHABILITATION BY CITY FORCES

Item number two of your December 3, 2014 e-mail lists Sewer System Rehabilitation by City Forces. The City of Batesville Water Utility is in the process of completing rehabilitation for various items set out in the attached Table 2 showing Methods, Quantities and Summary of Work Status. The City of Batesville has completed rehabilitation codes 1001, 1002, 1010, 5010, 5000, and 4360. A portion of rehabilitation code 4430 is in progress and completed. The 11 x 17" drawings referenced for Rehabilitation Code 4430 identify the mainline construction that has been completed to date. The work to be completed by the City is set out for basins number 11 and 7, in that order. A summary of sewer system rehabilitation completed for calendar years 2012 through 2014 by City Forces is shown in the attached Table 3. The City is in the process of reevaluating resources in order to complete these rehab code 4430 work items and other rehabilitation codes not completed as shown in Table 2.


Ms. Jacqueline Trotta
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Based on the current status of each of the items enumerated above, the City of Batesville requests that the Milestone Schedule be amended as follows:

ACTION ITEM	ANTICIPATED MILESTONE DATE	
Sewer Modeling and Plans Production	December 31, 2012	(Completed)
Mainline Construction	October 31, 2017	
Main Pump Station Construction	October 31, 2015	
Sewer System Rehabilitation Plans Production	May 31, 2012	(Completed)
Sewer System Rehabilitation by Contract	October 31, 2017	
Sewer System Rehabilitation by City Forces	December 31, 2018	
Rehabilitation of Private Service Lines	December 31, 2017	
Sewer System Effectiveness Evaluation	August 31, 2019	
Assess Remedial Action/Additional Facilities to Contain Peak Flows	December 31, 2020	

We believe that this report and the supporting documentation will fully establish the need for the extra time and satisfy you that the City has taken the steps within its contractual authority to keep this project moving forward. We realize that the supporting documentation is voluminous, and will require some time for you to review. Feel free to call Damon Johnson, City Engineer, at (870)-698-2415, to establish a date on which the City and its consulting engineer can meet with you to more fully discuss each of these items, if you feel it is required.

Sincerely,

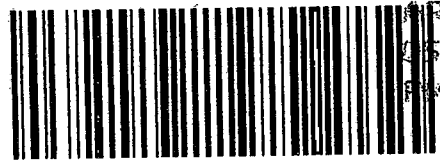


Rick Elumbaugh
Mayor

cc: City Council Members
Mr. Damon Johnson, P.E., Batesville City Engineer
Mike Core, P.E., ANRC
James C. Ulmer, P.E., MWY

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