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January 6, 2016

SENT VIA EMAIL & CERTIFIED MAIL

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

RE: City of Bryant
NPDES Permit No.: AR0034002, AFIN 63-0005
Response and Counter Offer to Proposed Consent Administrative Order

Dear Ms. Trotta:

The City of Bryant received the proposed consent administrative order on November 9, 2015 via certified mail. Subsequent to the receipt, a meeting was scheduled with you and convened at 2:30pm on November 18, 2015. A 30-day time extension request was sent to you on November 19, 2015. You granted the extension request via email on November 19, 2015. Outlined below is the City of Bryant's response and proposed counter offer to the proposed consent administrative order.

Item No. 1 – Findings of Fact:

As stipulated in your Findings of Facts Paragraph 10 and Finding of Facts Paragraph 12, the City of Bryant was under Consent Administrative Order (CAO) LIS 06-062 effective from April 28, 2006 to January 4, 2013. Although the City of Bryant acknowledges these SSO's, we opine that SSO's within the effective date of LIS 06-062 should be removed from any consideration for penalty calculation on the proposed CAO.

Therefore, based upon our research, the Findings of Facts Paragraph 13, should be reduced from 75 SSO's and 230,000 gallons to 58 SSO's and 179,300 gallons based upon occurrences from January 4, 2013 to August 31, 2015.

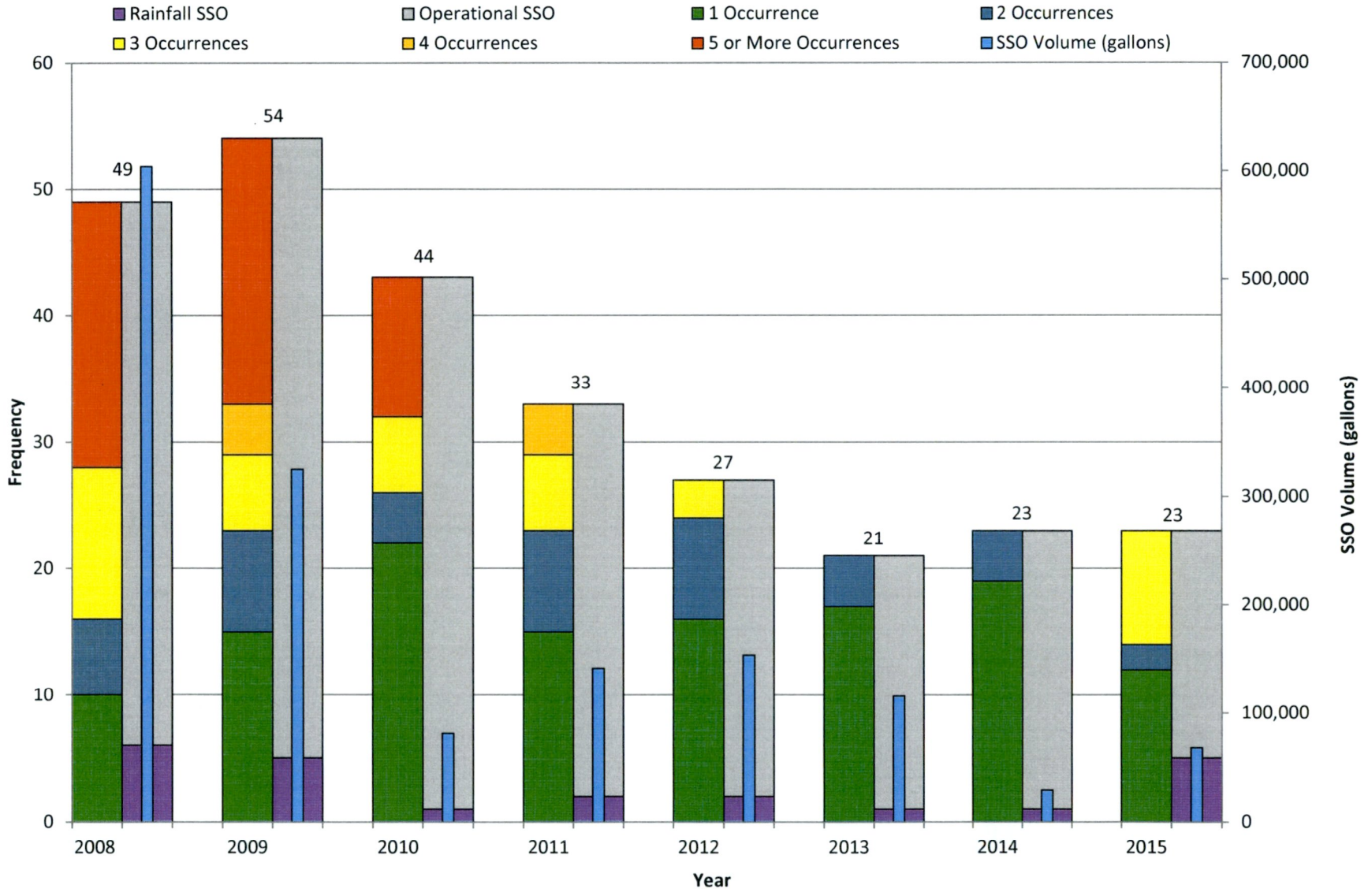
Item No. 2 – SSO Occurrence and Volume Reduction:

The City of Bryant has effectively reduced the SSO frequency and volume from 2008 to 2015. This data is demonstrated in **Exhibit 1 - City of Bryant SSO Frequency and Volume**, attached hereto.

Item No. 3 – Capital Cost to Reduce SSO's:

The City of Bryant has endeavored to reduce wet weather and dry weather related SSO's by spending approximately \$9 Million in equipment, engineering, and construction since 2008. **Table 1, Table 2, and Table 3** outlines the cost and time table for the projects related to SSO reduction.

City of Bryant - Exhibit 1: Total SSO Frequency and Volume



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Item No.	Begin	End	Description	Amount
1	1/2011	10/2014	SSES and Flow Monitoring	\$303,778
2	1/2011	11/2011	WWTP Aeration System	\$606,811
3	8/2012	8/2013	WWTP Improvements	\$1,803,646
4	7/2012	5/2013	Basin 4, 5, & Stivers Subdivision Rehabilitation	\$892,485
5	4/2013	2/2014	Manhole Rehabilitation	\$593,125
6	8/2015	Ongoing	PS 25 and PS 5 Modifications	\$2,343,540
7	9/2015	Ongoing	Sludge Removal	\$292,352
8	1/2011	Ongoing	Engineering and Administration for All Projects	\$1,093,000
			Current Total	\$7,928,737

Table 1: Capital Project Cost for SSO Reduction

Item No.	Purchase Date	Description	Amount	
1	9/2009	VACCON Vacuum Truck for I&I	\$320,000	
2	2010	Ques CCTV Van and Equipment	\$192,230	
3	2009	Hurco Smoke Test Equipment	\$4,210	
4	2012	Spartan Push CCTV	\$2,500	
4	6/2011	Portable Pumps for Pump Stations	\$39,000	
5	2014/2015	SCADA Upgrades for 35 Pump Stations	\$264,360	
			Current Total	\$822,300

Table 2: Capital Equipment Cost for SSO Reduction

Item No.	Begin	End	Self-Performed Activities	Amount
1	7/2015	7/2015	Smoke Testing - Basin 5 (33,000 ft) and Point Repairs	\$5,500
2	2014	2015	Physical Investigation of Possible I&I Sources (Basins 5/6)	\$6,500
3	2014	2015	Manhole Repairs	\$6,500
4	2014	2014	Pipeline Analysis Flow Monitoring Study	\$25,700
5	Scheduled 2016		ACT (Annual Contract) Sewer System Rehab	\$300,000
			Current Total	\$344,200

Table 3: Capital Cost for Self-Performed Activities for SSO Reduction

The City of Bryant continues to strive to reduce SSO occurrence, frequency, and volume. In compromise for Items No. 1, No. 2 and No. 3 discussed above, the City of Bryant proposes to reduce the civil penalty for the Findings of Fact found in Paragraph 13 in the amount of (\$1,200) for a revised amount of \$3,600.

Item No.4 – WWTP Effluent Violations:

The base penalty determined by the proposed consent administrative order for the Findings of Fact Paragraph 15 is \$1,000 based upon the ADEQ Civil Penalty Calculation Worksheet provided to the City of Bryant on November 18, 2015. The basis of the \$1,000 penalty is as follows; “The violation could result in a direct effect on the environment or result in moderate harm to public health.”

Nitrogen, ammonia total (as N): For the violations that occurred during August 2012, the monthly concentration average was 2.91 mg/L and the average 7-day was 9.5 mg/L. The monthly concentration limit is 2.4 mg/L and the average 7-day limit is 6.1 mg/L. Conversely, the mass limit is 60.0 lbs/day. The mass limit recorded during August 2012 was 30.32, or half the allowed discharge permit limit.

The City of Bryant conducted a retest of Invertebrates for WET Testing compliance for the month of August 2012, which passed Lethal NOEC and Sub-Lethal NOEC at 100%. Although the effect of ammonia toxicity has been more thoroughly documented with Vertebrates rather than Invertebrates, we opine that it appears unlikely that the ammonia violation could result in a direct effect on the environment or result in moderate harm to public health as indicated in the ADEQ Civil Penalty Calculation Worksheet, especially since the total monthly mass was less than the mass limit in the discharge permit and the pH was within the permitted range; a critical parameter for ammonia toxicity.

Solids, total suspended: For the violations that occurred during October 2013, the monthly concentration average was 23.93 mg/L and the average 7-day was 38.67 mg/L. The monthly concentration limit is 15 mg/L and the average 7-day limit is 22.5 mg/L. Conversely, the mass limit is 375.3 lbs/day. The mass limit recorded during October 2013 was 319.86 lbs/day, less than the allowed discharge permit limit.

Total Suspended Solids (TSS) is a technology based effluent limitation (TBEL) aimed to prevent pollution by requiring a minimum level of effluent quality that is attainable using demonstrated technologies for reducing discharge of pollutants. TBEL's are developed independently of the potential impact of a discharge on a receiving water, which is addressed through water quality based effluent limitations. As such, since all other permit parameters were in compliance including both TBEL and WBEL's parameters it appears unlikely that the TSS violation could result in a direct effect on the environment or result in moderate harm to public health as indicated in the ADEQ Civil Penalty Calculation Worksheet, especially since the total monthly mass was less than the mass limit in the discharge permit.

In compromise for Items No. 4 discussed above, the City of Bryant proposes to reduce the civil penalty for the Findings of Fact found in Paragraph 15 in the amount of (\$300.00) for a revised amount of \$900.00

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It is the objective of the City of Bryant to seek compliance with the laws and regulations administered by the Department. This compliance desire is demonstrated through the diligent effort to reduce SSO's occurrence and volume in the system, as shown herein, through the capital commitment to projects and equipment which is shown in **Exhibit 1 and Table 1, Table 2, and Table 3** included herewith.

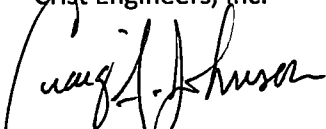
The City of Bryant desires to achieve a cooperative effort to resolve these deficiencies without the necessity to enter into a consent administrative order and requests a reasonable opportunity to resolve the violations through informal procedures prior to the initiation of administrative enforcement as permitted through Regulation 8.401, with full understanding through this effort to resolve the deficiencies in a manner acceptable to the Department; however, we do recognize and are willing to pay the civil penalty based upon the counter proposal discussed above. Further, we offer the following items of cooperative effort to resolve deficiencies identified.

1. To address the Findings of Fact Paragraph 13, the City of Bryant will, within 30 days, from the effective date of the agreed counter proposal by both parties, submit for review and approval to the Department a comprehensive Corrective Action Plan developed by a Professional Engineer registered in the State of Arkansas that will, at a minimum, include the following:
 - a. Reasonable milestone schedule
 - b. Final compliance schedule
 - c. Methodologies to correct deficiencies and prevent future violations
2. Pay civil penalty in the total amount of \$4,500.00 as presented in the counter proposal above.
3. The City of Bryant is in compliance with the permitted effluent limits and does not intend to submit a Corrective Action Plan for the effluent violations noted in Item No. 4 above.

The City of Bryant fully understands the commitments presented herewith and understands the Department can enforce, under their right, enforcement actions necessitating a consent administrative order; however, as demonstrated by the City of Bryant there is a continued and ongoing, voluntary cooperative effort to sustain compliance. Entering a consent administrative order at this time could hinder the positive momentum being achieved by administration and staff.

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

Sincerely,
Crist Engineers, Inc.

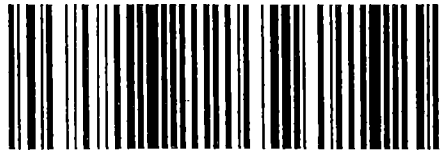


Craig A. Johnson, P.E.
Associate

Enclosures: **Exhibit 1: City of Bryant SSO Frequency and Volume**

Cc: Gregg Asher, General Manager, Bryant Water and Wastewater Department
Chris Madison, Bryant Staff Attorney

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