

Nancy Koon (adpce.ad)

From: Kristy Eanes <kristyeanes@yahoo.com>
Sent: Friday, December 2, 2022 4:51 PM
To: Water Draft Permit Comment
Cc: Becky Keogh (adpce.ad)
Subject: DENY Paradise Valley WWTP Discharge Permit Number AR0053210, AFIN 60-05010
Attachments: KEANES PV WWTP Comment 12-2-22.pdf

Dear Ms. Carstens,

Please find my comment letter attached.

Thank you,

Kristy Eanes
18319 Blackberry Ln.
Roland (Little Italy), AR 72135

December 2, 2022

Loretta Carstens, P.E.
Permits Branch, Office of Water Quality
Division of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

RE: DENY Paradise Valley Discharge Permit Number AR0053210, AFIN 60-05010

Dear Ms. Carstens,

I request that ADEQ **deny** the permit being considered for the Paradise Valley sewage facility and I request a public hearing.

Below I have enumerated several major issues with this draft permit which I hope you will consider before making your decision.

Respectfully,

Kristy Eanes
18319 Blackberry Ln.
Roland (Little Italy), AR 72135

**Several Major Issues with the draft permit for Paradise Valley WWTP
Discharge Permit Number AR0053210, AFIN 60-05010 including:**

1. Humans will come into contact with the treated sewage and will violate ADEQ's own code against human contact with treated sewage of a lower standard. Children and adults hunt in Mill Bayou & the wetlands and play and swim. Will Mill Bayou and its tributaries be condemned or fenced off in order to protect the citizens once the standard treated waste becomes the "flow" or mingles with stagnant waters? Output levels are too lax for human contact! **SEE ATTACHED** for hunting photos and link below to kids enjoying swimming in Mill Bayou.
<https://www.dropbox.com/s/o0x10zgd6n7uybu/flood%20photos%20001%20to%202010.pdf?dl=0>
2. Mill Bayou is classified by ADEQ as "fishable, swimmable, drinkable" and will no longer be the case with this low standard of wastewater treatment. ADEQ should change the 208 Plan to separately recognize Mill Bayou's unique role in the ecosystem.
3. The permit states "The limitations and requirements set forth in this permit for discharge into waters of the State are consistent with the Anti-degradation Policy and all other applicable water quality standards found in APC&EC Rule 2." but considering the "bad actor" history and low standards of treating waste with this permit, this is IMPOSSIBLE. Wetlands and streams will be degraded and this violates ADEQ's own code. You cannot let this happen.
4. Sediments will accumulate and systemically fill the wetlands over time from treated sewage and out-of-control and unmanaged stormwater requiring dredging activities in the wetlands and in a Water of the United States including Mill Bayou & its tributaries. This should be forbidden.
5. Mill Bayou is a stream of extremes: it floods, stagnates, and becomes dry as was recently demonstrated this summer. A dry creek bed begs the question: will the ADEQ need to be concerned

about dilution of the treated waste which is usually at the pipe? **SEE ATTACHED** photos of the Mill Bayou dry up this summer.

6. The ADEQ is allowing the applicant to discharge more than the design specifications of the WWTP.
7. There is a missing stream segment in the description on page 29.
8. There are different types of treated waste including: Contact recycled wastewater, non-contact recycled wastewater, and standard wastewater. This treatment plant is the very low standard of discharging "standard wastewater". Why? It will come into contact with people and degrade the wetlands. A higher standard of treated waste should be mandatory in this area.
9. ADEQ has ignored Maumelle Water Corporation's call for an impact study prior to issuing the permit in order to ensure the protection of their drinking water wells especially Well #1.
10. Osage Nation has written a comment detailing exactly how they wish the cultural site survey to be conducted. ADEQ did not mention Osage Nation in their permit and only mentioned the AHPP and stipulated that the applicant will satisfy AHPP and ADEQ but not the Osage. The Osage Nation and their detailed cultural survey should be specifically mentioned in the permit.
11. ADEQ did not include in the design specifications for the WWTP necessary retention basins in case of emergencies or out-of-compliance situations with an ADEQ documented termed "Bad Actor" who has a history of non-compliance (2 Consent Administrative Orders to his name and numerous enforcement reports with his existing Waterview Estates WWTP **SEE ATTACHED** plus the violation of filling streams on the Paradise Valley subdivision site without an Army Corps of Engineers permit). This important safeguard should be added to the permit especially considering the Bad Actor history which indicates environmental concerns are not a priority and only comes into compliance when ordered.
12. The draft permit is missing information which it references: A "water quality" model that is not presented for review with the permit; monitoring points are mentioned in the draft permit but not found.
13. The permit references the WWTP as being new on p 38 under "Initial Trust Fund Fee", but it is rusted sitting on the ground. Is the cost of a new WWTP being used?
14. This developer is defined by law as a "Bad Actor" and the ADEQ director has every right to deny the permit based upon this history namely Act 454 of 1991; Regulation 8; Act 163 of 1993; also see training document on environmental law for Arkansas Lawyers. **SEE ATTACHED EXCERPTS**.
15. Tract B on the Preliminary Plat approved by the Planning Board on 2-23-21 was designated a "Recreational Area" and discussed by the developer and his engineer as well as a future trail system with the Commissioners as an amenity. Tract B in recent documents approved by the ADH shows Tract B has become a "Stormwater Detention/Sedimentation Basin" stamped by the developer's engineer on 10-6-21. Van McClendon, Director of Pulaski County Planning, indicated in an email 3-7-21 that "Should the proposed configuration of the Preliminary plat be altered or changed, the applicant would have to bring a revised Preliminary Plat back to the Planning Board for review." I think this constitutes an alteration or change and should be sent back to the Pulaski County planning board for review and have reached out to Mr. McClendon but have not heard yet a decision. **SEE ATTACHED** plats before and after the alteration or change.

ATTACHMENTS:



CHILD HUNTING IN MILL BAYOU ON PROPERTY IMMEDIATELY ADJACENT TO THE PROPOSED LOCATION OF THE PARADISE VALLEY SEWAGE FACILITY



AREA OF PRISTINE WATERS (HAS BEEN TESTED) OF MILL BAYOU WHERE CHILDREN AND ADULTS HUNT



PHOTOS OF A DRY MILL BAYOU FROM THIS SUMMER – IT WAS DRY FOR WEEKS

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

**Waterview Estates, LLC.
Waterview Estates Subdivision
Pulaski County**

**LIS NO. 06-031
AFIN 60-02318**

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (hereinafter "Order") is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended; Ark. Code Ann. §8-4-101 et seq.) and the regulations issued thereunder (hereinafter collectively referred to as "the Act").

Pursuant to the authority of Ark. Code Ann. §8-4-207(1)(B), the Director for the Arkansas Department of Environmental Quality (hereinafter ADEQ) is authorized to set schedules of compliance for facilities permitted under the Act necessary to assure compliance with both applicable state and federal effluent limitations, including, but not limited to, those mandated by the National Pollutant Discharge Elimination System Program (hereinafter "NPDES") under section 402 of the Federal Water Pollution Control Act, 33 U.S.C. §1342 as well as under sections 301, 318, and 405 of the Federal Water Pollution Control Act, 33 U.S.C. §1311, 33 U.S.C. §1328 and 33 U.S.C. §1345; and Arkansas Pollution Control and Ecology Commission Regulations 2, 6, 7 & 8.

The issues herein having been settled by the agreement of Waterview Estates, LLC., Waterview Estates Subdivision, (hereinafter the "Permittee") and ADEQ, it is hereby

agreed and stipulated that the following **FINDINGS OF FACT** and **ORDER AND AGREEMENT** be entered herein.

Notwithstanding, the Permittee's entry into this Order, the Permittee does not admit nor deny ADEQ's Findings of Fact contained in this Order. The Permittee agrees to enter into this compromise and settlement solely to avoid incurring any further cost or expense arising as a result of this dispute. Without any admission of liability, the Permittee consents to enter into this order resolving matters addressed in this Consent Order.

FINDINGS OF FACT

1. Waterview Estates, LLC., Waterview Estates Subdivision, is located in Pulaski County. The Permittee operates a construction site of approximately 500 acres under NPDES Storm water Permit ARR150142, issued March 10, 2004.
2. On October 1, 2004, an inspection was conducted by an ADEQ Water Division Field Inspector. The inspection revealed the following alleged violations:
 - a. The Storm Water Pollution Prevention Plan (SWPPP) was not available for review by ADEQ personnel at the time of the inspection in violation of Part II, Section A, Paragraph 2(a), and Part II, Section B, Paragraph 7 of the Permit;
 - b. Site inspection records were not being maintained on-site, in violation of Part II, Section A, Paragraph 4(e)(i-iii) of the Permit;
 - c. Rainfall data was not being tracked to ensure inspections were conducted within 24 hours of the end of a storm that is 0.5 inches or greater, as required by Part II, Section A, Paragraph 4(e) of the Permit;

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- d. The site was not properly posted, in violation of Part I, Section B, Paragraph 7(e) of the Permit.

3. A letter dated October 21, 2004, from Harper Construction Co., Inc. on behalf of Waterview Estates, LLC. stated the SWPPP and the site inspection records were kept in the Site Superintendent's truck at the time of the inspection, but were moved to a tube attached to the site posting board near the entrance. A rain gauge was installed at the site.

4. On December 13, 2004, an inspection was conducted by an ADEQ Water Division Field Inspector. The inspection revealed the following alleged violations:

- a. The SWPPP was inadequate since the site description did not list the acreage or size of the site, in violation of Part II, Section A, Paragraph 4(a)(iii);
- b. The SWPPP was not being implemented, in violation of Part I, Section C, Paragraph 3(a), and Part II, Section A, Paragraph 3, of the Permit;
- c. Erosion control measures were not being maintained, in violation of Part I, Section C, Paragraph 3(a) of the Permit;
- d. Although an on-site inspection report dated December 7, 2004 stated the erosion control measures were all okay, the ADEQ inspection revealed that silt fences were ineffective and/or not properly installed, and that some of the controls were covered with sediment, in violation of Part I, Section C, Paragraph 3(a) of the Permit;
- e. The site was not correctly posted since the posting failed to identify the amount of acreage and/or the size of the site, in violation of Part I, Section B, Paragraph 7(e) of the Permit;

f. Sediment was bypassing the controls and discharging into a tributary of Mill Bayou, east of the site, in violation of A.C.A §8-4-217(a)(2).

5. The Department notified the Permittee of the violations in a letter dated December 13, 2004. A response, dated December 15, 2004, stated the Permittee had received verbal guidance from the Department which caused the Permittee to place the size of just the designed phase of the development in the NOI and posting. The response stated the SWPPP had been implemented and erosion controls were being maintained. The Permittee stated that BMPs by definition allow some sediment to discharge downstream but do an excellent job of protecting against downstream impacts. The Permittee also requested to meet with Department staff.

6. On February 14, 2005, the Department sent a proposed Consent Administrative Order (CAO) to the Permittee.

7. In a letter dated March 15, 2005, the Permittee responded to the proposed Consent Administrative Order by stating the following for the October 1, 2004 inspection:

- a. The SWPPP was available since it was located in the contractor's truck. The contractor had left the site at the time of the inspection, but ADEQ staff did not call the contractor or attempt to confirm the availability of the SWPPP;
- b. The site inspection records were available since the records were located in the contractor's truck, and after October 1, 2004 were being kept in a tube with the SWPPP attached to the site posting board;
- c. The Permittee tracked rainfall data from the beginning of the project, and installed a rain gauge on the site; and,

-
- d. The site was properly posted according to information received from ADEQ staff.

8. The March 15, 2005 response also stated the following for the December 13, 2004 inspection:

- a. The SWPP was not inadequate and the allegation had no basis in fact since the listing of the project size was based on guidance from ADEQ;
- b. The SWPP was continuously implemented from the start of the construction;
- c. Erosion controls were implemented and working;
- d. The site was correctly posted since the listing of the project size was based on guidance from ADEQ;
- e. ADEQ has not provided evidence that the discharge impacted Mill Bayou; and,
- f. There is a logging operation located in the Lake Maumelle watershed, but the Permittee's construction is outside that area.

9. On April 19, 2005, representatives for the Permittee and ADEQ met to resolve the issues contained in the proposed Consent Administrative Order. The Permittee provided a copy of a revised site map, and a photocopy of a restraining order preventing the Permittee from accessing the Lake Maumelle watershed area. The Permittee requested the CAO be withdrawn and the penalty dropped.

10. A.C.A. §8-4-217(a)(2) states that it shall be unlawful to place or cause to be placed any sewage, industrial waste, or other wastes in a location where it is likely to cause pollution of any waters of this state; and A.C.A. §8-4-217(a)(3) states that it shall be unlawful for a person to violate any provision of a Permit issued under this chapter by

ADEQ. Therefore, as a result of the foregoing violations committed by the Permittee, the following actions are proposed to be ordered herein pursuant to A.C.A §8-4-103(b).

ORDER AND AGREEMENT

Therefore, the parties do hereby stipulate and agree that:

1. The Permittee has submitted a Corrective Action Report which includes a copy of the Storm Water Pollution Prevention Plan (SWPPP) with a site map indicating where runoff controls were placed and photo documentation of site runoff controls.
2. In compromise and full settlement of the civil penalties for violations (specified in the Findings of Fact), the Permittee agrees to pay to ADEQ the total sum of Four Thousand Fifty Dollars (\$4,050.00) as a voluntary civil penalty. Payment of the penalty shall be made within thirty (30) days of the effective date of this Order, made payable to the Arkansas Department of Environmental Quality and mailed to the attention of: The Fiscal Division, Arkansas Department of Environmental Quality, P.O. Box 8913, Little Rock, Arkansas 72219-8913.
3. All submittals required by this Order are subject to approval by ADEQ. In the event of any deficiency, the Permittee shall within fifteen (15) days of notification by ADEQ submit any additional information requested. Failure to adequately respond to the notice of deficiency within fifteen (15) days constitutes a failure to meet a deadline and is subject to the civil penalties established in paragraph 4 below.
4. Failure to meet the requirements of this Order including failure to respond by the time limits contained herein constitutes a violation of said Order. If the Permittee should fail to meet any such requirements or deadlines, the Permittee consents and agrees to pay, on demand, to ADEQ civil penalties according to the following schedule:

-
- | | | |
|----|---|------------------|
| a. | First day through the tenth day: | \$100.00 per day |
| b. | Eleventh day through the twentieth day: | \$200.00 per day |
| c. | Twenty-first day through thirtieth day: | \$300.00 per day |
| d. | Each day beyond the thirtieth day: | \$500.00 per day |

These stipulated penalties for delays in performance shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of the Permittee's failure to comply with the requirements of this Order.

5. If any event, including but not limited to an act of nature, occurs which causes or may cause a delay in the achievement of compliance by the Permittee with the requirements or deadlines of this Order, the Permittee 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 herein. 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.

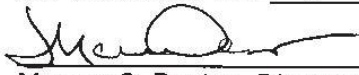
6. ADEQ may grant an extension of any provision of this Order, provided that the Permittee requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of the Permittee. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of the Permittee and the length of the delay attributable to such circumstances shall rest with the Permittee. Failure to notify the ADEQ promptly, as provided in paragraph 5 of this section, shall be grounds for a denial of an extension.

7. This Order is subject to public review and comment in accordance with A.C.A. §8-4-103 (d) and Arkansas Pollution Control and Ecology Commission Regulation No. 8 and shall not be final until thirty (30) 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 with the terms of the permit shall be taken immediately.

8. As provided by Arkansas Pollution Control and Ecology Commission 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.

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

SO ORDERED THE 6th DAY OF March, 2005



Marcus C. Devine, Director

APPROVED AS TO FORM AND CONTENT:

BY:



(Signature)

RANDY FERGUSON

(Typed or printed name)

X TITLE: Authorized Representative, Waterview Estates, LLC
(Typed or printed title)

X DATE: February 16, 2006

ARKANSAS DEPARTMENT OF ENERGY AND ENVIRONMENT
DIVISION OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

WVE Property Owners Association, Inc.
P.O. Box 23670
Little Rock, AR 72221

LIS No. 21- 124
Permit Number: AR0050393 (CAO)
AFIN 60-02318

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

The issues herein having been settled by the agreement of WVE Property Owners Association, Inc. (Respondent) and the Division of Environmental Quality¹ (DEQ), 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 sanitary wastewater treatment plant for Waterview Estates Subdivision, ("Facility") located at Highway 300, Roland, Pulaski County, Arkansas.
2. Respondent discharges treated wastewater to Mill Bayou, thence to the Arkansas River in Segment 3C of the Arkansas River Basin.
3. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).

¹ Pursuant to Act 910 of 2019, the Arkansas Transformation and Efficiencies Act, the former Arkansas Department of Environmental Quality is now the Division of Environmental Quality in the newly created Department of Energy and Environment.

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. DEQ is authorized under the Arkansas Water and Air Pollution Control Act (“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 or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [DEQ].
7. Ark. Code Ann. § 8-4-103(c)(1)(A) authorizes DEQ 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 rule 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. DEQ issued NPDES Permit Number AR0050393 (“Permit”) to Respondent on February 27, 2017. The Permit became effective on March 1, 2017, and expires on February 28, 2022.
10. Part III, Section D, Condition 10 of the Permit requires Respondent to submit a complete permit renewal application at least 180 days prior to the expiration date of the Permit if the activity regulated by the Permit is to continue after the expiration date.

11. Respondent intends to operate this facility beyond the expiration date of the current permit, February 28, 2022.

12. On March 2, 2021, and June 1, 2021, DEQ notified Respondent that the Permit would expire on February 28, 2022, and that in order to continue the regulated activity, a complete renewal application must be submitted no later than September 1, 2021.

13. DEQ received a Permit renewal application from Respondent on September 2, 2021, and on September 8, 2021, DEQ notified Respondent that its application was incomplete. The incomplete application submitted on September 2, 2021, was missing the following information:

- a. The NAICS code was not listed in DEQ Form 1, Section A.13.
- b. The discharge location was not marked on the topographic map as required by DEQ form 1, Section B.1.
- c. A process flow diagram of the wastewater treatment plant was not submitted as required by DEQ form 1, Section B.2.
- d. The test results for Oil & Grease, winter effluent temperature, and summer effluent temperature were not included on the EPA Form 2E.

14. The complete Permit renewal application was not received by September 1, 2021. Failure to submit the complete Permit renewal application by September 1, 2021, is a violation of Part III, Section D, Condition 10 of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. On or before the effective date of this Order, Respondent shall submit an administratively complete permit renewal application.

2. Respondent shall comply with the existing Permit until either the effective date of the permit renewal or the effective date of the permit termination.

3. In compromise and full settlement of the violations specified in the Findings of Fact, Respondent agrees to pay a civil penalty of One Thousand Dollars (\$1,000.00), or one-half of the full civil penalty of Five Hundred Dollars (\$500.00) if this Order is signed and returned to the Office of Water Quality Enforcement Branch, DEQ, 5301 Northshore Drive, North Little Rock, Arkansas, 72118-5317, within twenty (20) calendar days of receipt of this Order. Payment is due within thirty (30) calendar days of the effective date of this Order. Payment of the penalty shall be made payable to the Division of Environmental Quality, and mailed to the attention of:

Division of Environmental Quality
Fiscal Division
5301 Northshore Drive
North Little Rock, AR 72118

In the event that Respondent fails to pay the civil penalty within the prescribed time, DEQ shall be entitled to attorneys' fees and costs of collection.

4. Failure to meet any requirement or deadline of this Order constitutes a violation of this Order. If Respondent should fail to meet any such requirements or deadlines, Respondent consents and agrees to pay on demand to DEQ 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 DEQ by reason of failure by Respondent to comply with the requirements of this Order.

5. 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 DEQ, 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.

6. DEQ may grant an extension of any provision of this Order, provided that Respondent requests such an extension in writing and provided that 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. The burden of proving that any delay is caused by circumstances beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify the DEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

7. All requirements by the Order and Agreement are subject to approval by DEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by DEQ, submit any additional information or changes requested, or take additional actions specified by DEQ to correct any such deficiencies. Failure to respond adequately to such Notice of Deficiency within the timeframe specified in writing by DEQ constitutes a failure to meet the requirements established by this Order.

8. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Rule 8 and shall not be effective until thirty (30) calendar days after public notice is given. DEQ retains the right to rescind this Order based upon the comments received within the thirty (30) 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 Rule 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.

9. Nothing in this Order shall be construed as a waiver by DEQ 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 that is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

10. By virtue of the signature appearing below, the individual represents that he or she is an Officer of Respondent, being duly authorized to execute and bind Respondent to the terms contained herein. Execution of this Order by an individual other than an Officer of Respondent shall be accompanied by a resolution granting signature authority to said individual as duly ratified by the governing body of the entity.

SO ORDERED THIS 8TH DAY OF DECEMBER, 2021.



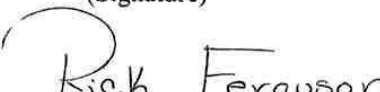
JULIE LINCK, CHIEF ADMINISTRATOR, ENVIRONMENT

APPROVED AS TO FORM AND CONTENT:

WVE Property Owners Association, Inc.

BY: 

(Signature)



Rick Ferguson
(Typed or printed name)

TITLE: President

DATE: 11/22/2021

WATERVIEW ESTATES SEWAGE FACILITY ENFORCEMENT REPORTS FROM ADEQ WEBSITE:

**Enforcement Reports
AR0050393**

▼Additional Documents	▼Date
NCR March 2022 (pdf)	2022-04-20
NCR November 2021 (pdf)	2021-12-25
Executed CAO Letter (pdf)	2021-12-09
Proposed CAO Cover Letter (pdf)	2021-11-17
Permit Expiration Reminder Email 2 (pdf)	2021-06-01
NCR for February 2021 (pdf)	2021-03-25
NCR for December 2020 (pdf)	2021-01-25
NCR for November (pdf)	2019-12-25
NCR for April (pdf)	2019-05-25
NCR for December (pdf)	2019-01-25
NCR Dec 2018 (pdf)	2019-01-14
March 2018 NCR (pdf)	2018-04-24
Missing DMRs Letter (pdf)	2017-12-06
TRC BMP (pdf)	2017-07-21
netDMR app for Shirley Davis 2016 (pdf)	2016-08-30
Cognizant Official Change (pdf)	2016-08-15
Cognizant Official Form (pdf)	2016-08-08
ROC regarding April 27, 2014 Tornado (pdf)	2014-04-28
Compliance Schedule Advisory letter (pdf)	2014-01-09
Compliance Schedule Advisory letter (pdf)	2013-12-03
notification of operator resignation (pdf)	2012-08-20
signatory_update_ltr (pdf)	2011-10-24
Adeq ltr (pdf)	2011-10-05
WATERVIEW ESTATES (pdf)	2011-09-15

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ACT 454 OF 1991; REGULATION 8; ACT 163 OF 1993; TRAINING DOCUMENT ON ENVIRONMENTAL LAW FOR ARKANSAS LAWYERS EXCERPTS:

As Engrossed: 1/24/91, 2/7/91, 2/14/91, 2/20/91

1 State of Arkansas

2 78th General Assembly **A Bill ACT 454 OF 1991**

3 Regular Session, 1991 SENATE BILL 167

4 By: Senators Dowd, Ross

5

6

7 For An Act To Be Entitled

8 "AN ACT TO AMEND THE ARKANSAS CODE TO EMPOWER THE DIRECTOR

9 OF THE DEPARTMENT OF POLLUTION CONTROL AND ECOLOGY TO DENY
10 PERMITS, LICENSES, CERTIFICATIONS OR OPERATIONAL
11 AUTHORIZATIONS TO APPLICANTS WHO HAVE A RECORD OF
12 ENVIRONMENTAL NONCOMPLIANCE; AND FOR OTHER PURPOSES."

13
14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
15

16 SECTION 1. Subchapter 1 of Chapter 1 of Title 8 of the Arkansas Code of
17 1987 is hereby amended by adding the following section:

18 "8-1-106. Denial of Applications - Disclosure Statements.

19 (a) For the purposes of this section:

20 (1) 'affiliated person' includes, but is not limited to:

21 (A) any officer, director or partner of the applicant;

22 (B) any person employed by the applicant in a supervisory

23 capacity over operations of the facility which is the subject of the

24 application which may adversely impact the environment, or with discretionary
25 authority over such operations;

26 (C) any person owning or controlling more than five percent

27 (5%) of the applicant's debt or equity; and

28 (D) any person who is not now in compliance or has a

29 history of non-compliance with the

30 environmental laws or regulations of this

31 state or any other jurisdiction and who

32 through relationship by affinity or

33 consanguinity or who through any other

34 relationship could be reasonably expected

35 to significantly influence the applicant

36 in a manner which could adversely affect

1 the environment;

(2) 'disclosure statement' means a written statement by the
3 applicant which contains:

(D) a listing and explanation of any civil or criminal

15 legal actions by government agencies involving environmental protection laws

16 or regulations against the applicant and affiliated persons in the ten years

17 immediately preceding the filing of the application, including administrative

18 enforcement actions resulting in the imposition of sanctions, permit or

19 license revocations or denials issued by any state or federal authority,

20 actions that have resulted in a finding or a settlement of a violation, and

21 actions that are pending;

28 (3) 'history of noncompliance' means past operations by an applicant

29 which clearly indicate a disregard for environmental regulation, or a

30 demonstrated pattern of prohibited conduct which could reasonably be expected

31 to result in adverse environmental impact if a permit were issued.

(c) The Director may deny the issuance, or transfer of any permit,

13 license, certification or operational authority if he finds, based upon the
14 disclosure statement and other investigation which he deems appropriate, that

15 (1) the applicant has a history of noncompliance with the environmental laws

16 or regulations of this state or any other jurisdiction, (2) an applicant which

17 owns or operates other facilities in the state is not in substantial

18 compliance with, or on a legally enforceable schedule that will result in

19 compliance with, the environmental laws or regulations of this state, or (3) a

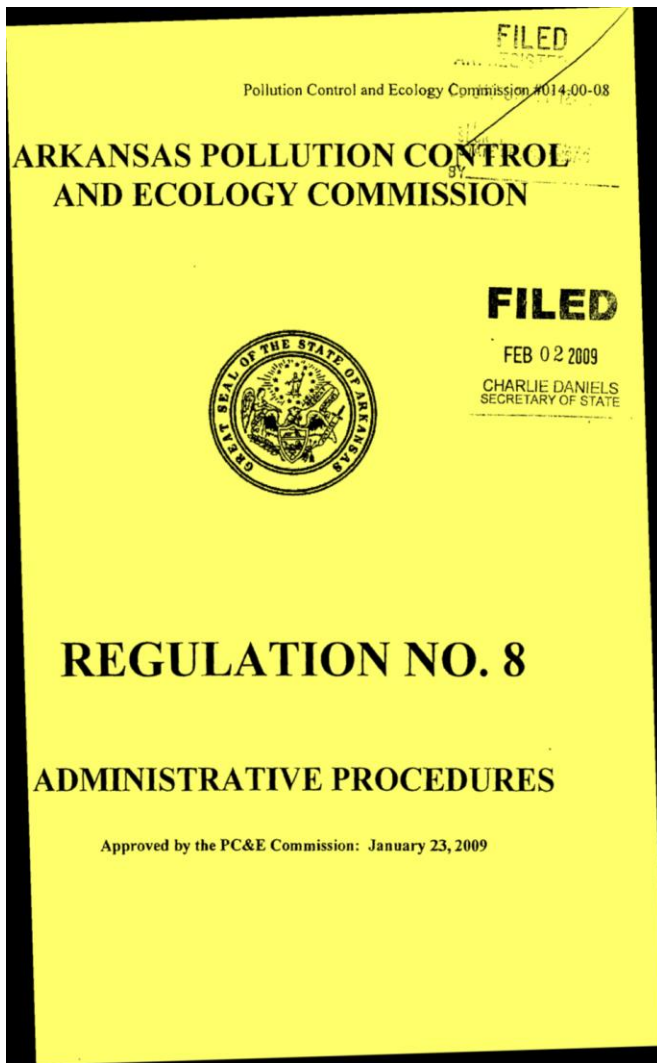
20 person with a history of noncompliance with the environmental laws or

21 regulations of this state or any other jurisdiction is affiliated with the

22 applicant to the extent of being capable of significantly influencing the

23 practices or operations of the applicant which could have impact upon the

24 environment.



Nothing in this section, including the exemptions listed herein, shall be construed as a limitation upon the authority of the director to deny a permit based upon a history of noncompliance to any applicant or for other just cause.

(D) Denial - The Director may deny the issuance or transfer of any permit, license, certification or operational authority if the Director finds:

The applicant has a documented and continuing history of criminal convictions, based upon violations of any state or federal environmental laws or regulations; or

has a documented history of violations of state or federal environmental laws or regulations that evidence a history of non-compliance or a pattern of disregard for state or federal laws or regulations; and has either made no attempt or has failed to remediate the disclosed violations

b) In making a determination of whether a documented history of violations of state or federal laws or regulations constitutes a history of non-compliance or a pattern of disregard sufficient to deny a permit, the Director shall consider:

The nature and details of the violations attributed to the applicant;

The degree of culpability of the applicant;

The applicant's history of violations of state or federal environmental laws or regulations. In determining the applicant's history of non-compliance, the Director shall

not consider the applicant's prior violations of environmental laws or regulations if those violations are addressed in a consent administrative order and the applicant is in compliance with that order

Whether the applicant has substantially complied with this state's statutes, rules, regulations, permits, and orders applicable to the applicant in this State relative to the activity for which the permit is sought;

Whether the applicant has substantially complied with other states' or jurisdictions' statutes, rules, regulations, permits, and orders applicable to the applicant relative to the activity for which the subject permit is sought;

As Engrossed: 1/25/93 1/26/93 2/3/93 2/4/93 2/8/93

1 **State of Arkansas**

2 **79th General Assembly** **A Bill ACT 163 OF 1993**

3 **Regular Session, 1993 HOUSE BILL 1062**

4 **By: Representatives J. Miller, George, Maddox, McGinnis, Hinshaw, McJunkin, Purdom,**
5 **Watts, Whorton, Hunton, Steele, Curran, and O. Miller**

6
7

8 **For An Act To Be Entitled**

9 "AN ACT TO AMEND VARIOUS SECTIONS OF CHAPTERS 1, 2 AND 4
10 OF TITLE 8 OF THE ARKANSAS CODE OF 1987, RELATING TO WATER
11 AND AIR POLLUTION AND THE AUTHORITY AND RESPONSIBILITY OF
12 THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION WITH
13 RESPECT THERETO; AND FOR OTHER PURPOSES."

14

15 **Subtitle**

16 **"TO AMEND VARIOUS LAWS RELATING TO WATER AND AIR**
17 **POLLUTION."**

SECTION 4. Arkansas Code 8-1-106 is amended to read as follows:

9 *"8-1-106. Definitions - Disclosure statements - Denial of application - Appeal -*
10 *Regulations.*

11 *(a) For the purposes of this section:*

12 *(1) 'Affiliated person' includes, but is not limited to:*

(D) Any person who is not now in compliance or has a history of noncompliance with
20 *the environmental laws or regulations of this state or any other jurisdiction and who through*
21 *relationship by affinity or consanguinity or who through any other relationship could be*
22 *reasonably expected to significantly influence the applicant in a manner which could*
23 *adversely affect the environment;*

(3) 'History of noncompliance' means past operations by an applicant which clearly
10 indicate a disregard for environmental regulation, or a demonstrated pattern of prohibited
11 conduct which could reasonably be expected to result in adverse environmental impact if a
12 permit were issued

(c) The director may deny the issuance or transfer of any permit, license, certification,
28 or operational authority if he finds, based upon the disclosure statement and other

29 investigation which he deems appropriate, that: (1) The applicant has a history of
30 noncompliance with the environmental laws or regulations of this state or any other
31 jurisdiction;

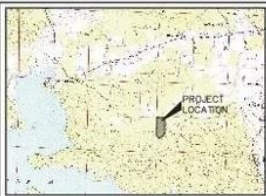
Environmental Law For The Arkansas Lawyer

Any history of environmental non-compliance should be brought to the attention of ADEQ with a full explanation of mitigating circumstances, since a designation of an applicant by ADEQ as a “bad actor” can adversely impact all future permits in Arkansas.

TWO DIFFERENT PARADISE VALLEY PRELIMINARY PLATS:

- 1) **PRELIMINARY PLAT ORIGINAL APPROVAL ON 2-23-21 SHOWS TRACT B AS “RECREATIONAL AREA”**
- 2) **PRELIMINARY PLAT CHANGE SHOWS TRACT B AS “DETENTION POND” WITH ENGINEER STAMP DATED 10-6-21 IN RECENT DOCUMENTATION FROM THE ADH.**

SEE BELOW:



VICINITY MAP
(1"=4000')

BUILDING SETBACKS

FRONT	30'
REAR	30'
SIDE	10K LOT WIDTH

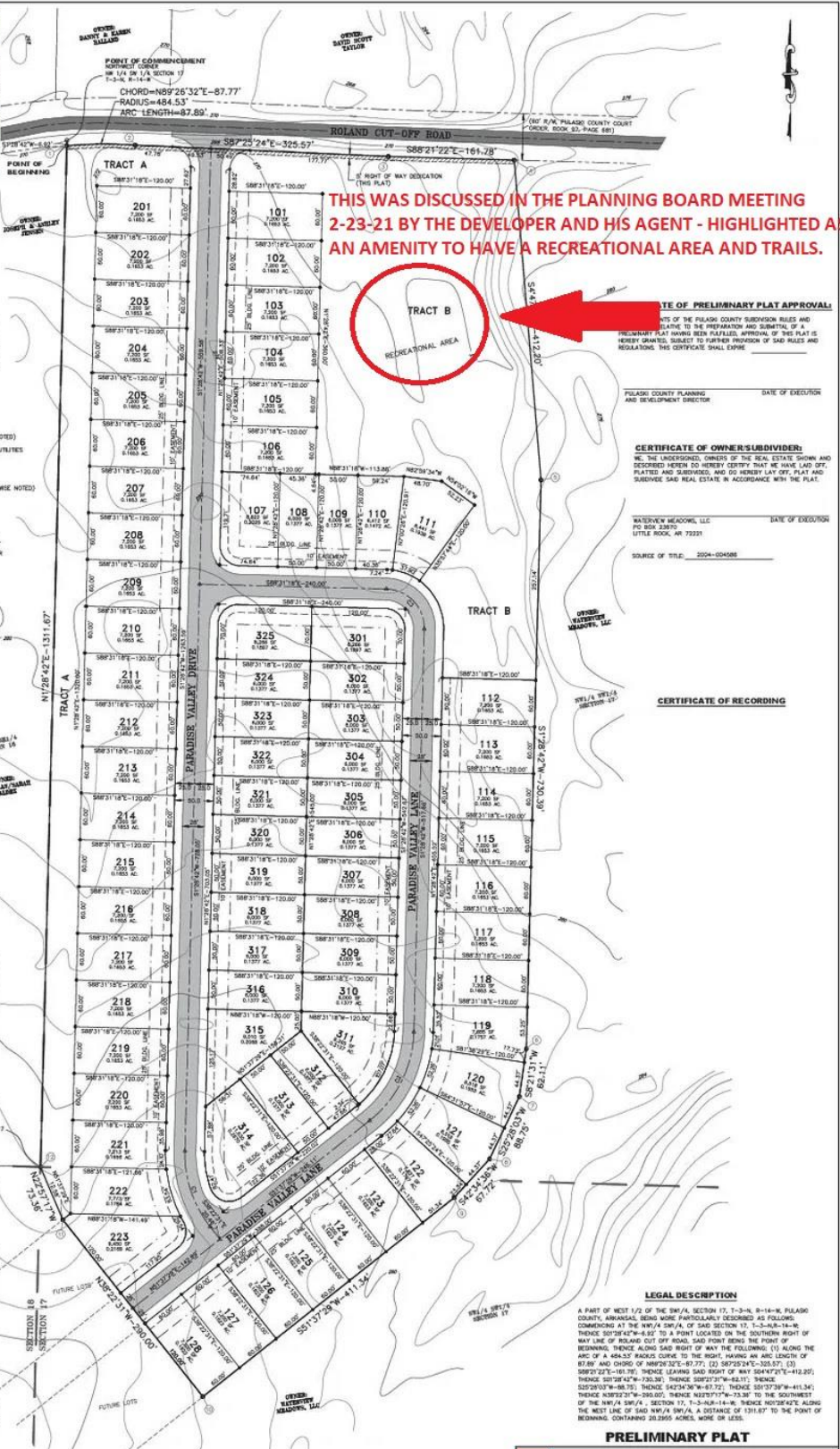
CURVE DATA

CURVE NO.	RADIUS	ARC LENGTH	BEARING
C1	130.50	104.34	S19°23'53"E-102.55
C2	130.50	131.38	S28°33'09"W-127.13
C3	500.00	78.94	S42°31'05"E-70.71

- GENERAL NOTES:**
1. BASIS OF BEARINGS: ARKANSAS STATE PLANE COORDINATE SYSTEM NORTH ZONE, NAD 83
 2. ALL CORNERS WILL BE SET WITH 1/2" IRON PINS (UNLESS OTHERWISE NOTED)
 3. EASIMENTS INDICATED HEREON SHALL BE USED FOR DRAINAGE AND/OR UTILITIES
 4. DISTANCES SHOWN ALONG CURVES ARE CHORD DISTANCES.
 5. ERROR OF CLOSURE: EXCEEDS 1/100,000
 6. RACE AT STREET RIGHT OF WAY INTERSECTIONS ARE 25' (UNLESS OTHERWISE NOTED)
 7. TOTAL NUMBER OF LOTS: 76
50' FRONT: 30
60' FRONT: 46
 8. ALL RIGHT OF WAYS INDICATED HEREON ARE TO BE PUBLIC
 9. TRACT A SHALL BE USED FOR DRAINAGE, UTILITY AND/OR WALKING TRAIL
 10. TRACT B SHALL BE USED FOR DRAINAGE, UTILITY, WALKING TRAIL AND/OR RECREATIONAL AREA

MAP COORDINATES

POINT #	NORTHING (FT)	EASTING (FT)
1	206509.13	1154016.86
2	206509.98	1154104.63
3	206495.35	1154429.86
4	206490.71	1154519.58
5	206079.94	1154625.99
6	205349.79	1154607.15
7	205288.34	1154598.12
8	205208.21	1154509.96
9	205158.35	1154514.14
10	204902.99	1154191.67
11	205130.34	1154011.64
12	205197.89	1153983.02



THIS WAS DISCUSSED IN THE PLANNING BOARD MEETING 2-23-21 BY THE DEVELOPER AND HIS AGENT - HIGHLIGHTED AS AN AMENITY TO HAVE A RECREATIONAL AREA AND TRAILS.



CERTIFICATE OF OWNER/SUBDIVIDER:
WE, THE UNDERSIGNED, OWNER OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN DO HEREBY CERTIFY THAT WE HAVE LADY, DRY, PLATTED AND SUBDIVIDED, AND DO HEREBY LAY OFF, PLAT AND SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THE PLAT.

PLAINS COUNTY PLANNING AND DEVELOPMENT DIRECTOR DATE OF EXECUTION

CERTIFICATE OF OWNER/SUBDIVIDER:
WE, THE UNDERSIGNED, OWNER OF THE REAL ESTATE SHOWN AND DESCRIBED HEREIN DO HEREBY CERTIFY THAT WE HAVE LADY, DRY, PLATTED AND SUBDIVIDED, AND DO HEREBY LAY OFF, PLAT AND SUBDIVIDE SAID REAL ESTATE IN ACCORDANCE WITH THE PLAT.

WATSON MEADOWS, LLC DATE OF EXECUTION
PO BOX 28870
LITTLE ROCK, AR 72201

SOURCE OF TITLE: 2024-004086

CERTIFICATE OF RECORDING

CERTIFICATE OF FINAL SURVEYING ACCURACY:
I, DANIEL W. HANER, HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY COMPLETED BY ME, OR UNDER MY SUPERVISION, THAT THE BOUNDARY LINES SHOWN HEREON CORRESPOND WITH THE DESCRIPTION IN THE DEEDS CITED IN THE ABOVE SOURCE OF TITLE, AND THAT ALL MONUMENTS WHOSE WERE FOUND OR PLACED ON THE PROPERTY ARE CORRECTLY RECORDED AND LOCATED.

DANIEL W. HANER DATE OF EXECUTION
REGISTERED LAND SURVEYOR
NO. 1542, ARKANSAS

CERTIFICATE OF ENGINEERING ACCURACY:
I, JOE D. WHITE, JR., HEREBY CERTIFY THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY AND A PLAN OF IMPROVEMENTS MADE BY ME OR UNDER MY SUPERVISION, THAT ALL MONUMENTS SHOWN HEREON ACTUALLY EXIST AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE CORRECTLY SHOWN, AND THAT ALL REQUIREMENTS OF THE PLAINS COUNTY SUBDIVISION RULES AND REGULATIONS HAVE BEEN FULLY COMPLIED WITH.

JOE D. WHITE, JR. DATE OF EXECUTION
REGISTERED PROFESSIONAL ENGINEER
NO. 7094, ARKANSAS

FLOOD INFORMATION
NO PORTION OF THIS PROPERTY IS LOCATED WITHIN THE 100 YEAR FLOOD BOUNDARY AS PER FEMA FLOOD INSURANCE RATE MAP NO. 05110R0302G, EFFECTIVE DATE: JULY 6, 2003 FOR PLAINS COUNTY.



LEGAL DESCRIPTION
A PART OF WEST 1/2 OF THE SW1/4, SECTION 17, T-3-S, R-14-W, PLAINS COUNTY, ARKANSAS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NW1/4 SW1/4, OF SAID SECTION 17, T-3-S, R-14-W, THENCE S61°42'46"E TO A POINT LOCATED ON THE SOUTHERN RIGHT OF WAY LINE OF ROLAND CUT-OFF ROAD, SAID POINT BEING THE POINT OF BEGINNING, THENCE ALONG SAID RIGHT OF WAY THE FOLLOWING: (1) ALONG THE ARC OF A 484.53' RADIUS CURVE TO THE RIGHT, HAVING AN ARC LENGTH OF 87.87' AND CHORD OF 84.97' (S19°23'53"E-102.55'); (2) S28°33'09"W-127.13'; (3) S42°31'05"E-70.71'; THENCE LEAVING SAID RIGHT OF WAY S54°42'27"E-412.00', THENCE S27°32'47"W-230.35', THENCE S27°31'05"W-82.17', THENCE S25°03'03"W-88.70', THENCE S42°34'30"W-87.72', THENCE S57°33'30"W-411.34', THENCE S27°32'47"W-280.00', THENCE N22°17'14"W-33.58' TO THE SOUTHWEST CORNER OF THE NW1/4 SW1/4, SECTION 17, T-3-S, R-14-W, THENCE N02°54'27"E ALONG THE WEST LINE OF SAID NW1/4 SW1/4, A DISTANCE OF 131.87' TO THE POINT OF BEGINNING, CONTAINING 20.2859 ACRES, MORE OR LESS.

PRELIMINARY PLAT
PARADISE VALLEY
PHASE I
LOTS 101-128
LOTS 201-223
LOTS 301-325
TRACTS A & B
AN ADDITION TO PLAINS COUNTY, ARKANSAS
BEING PART OF SECTION 17, T-3-S, R-14-W

JOE WHITE & ASSOCIATES, INC.
CIVIL ENGINEERING - CONSULTING SERVICES - LAND SURVEYING
2000 W. WHITE BLVD., SUITE 200, LITTLE ROCK, ARKANSAS 72201
(501) 221-1111



NO.	DATE	REVISION

DATE: FEBRUARY 2, 2021 SCALE: 1" = 60'
PROJECT NUMBER: 21-0361

THIS DOCUMENT WAS FOUND IN THE RECENT ADH RE-APPROVAL LETTER OF 11-17-22 AND SHOWS THAT TRACT B IS NO LONGER A RECREATIONAL AREA BUT A DETENTION POND.

THE DIRECTOR OF PLANNING INDICATED TO ME CHANGES TO THE PRELIMINARY PLAT CONFIGURATION WOULD REQUIRE BRINGING A REVISED PRELIMINARY PLAT BACK TO THE PLANNING BOARD.

Van McQuaden
 To: Kristy Eanes, Jim Cramer
 Cc: Shane Blaney, Adam Fogelman

I have forwarded your email to our Public Works Director as the department (Road & Bridge) would likely be the party to respond to your query reference item 4. There is no Public Works Site Plan for Paradise Valley. Should the proposed configuration of the Preliminary plat be altered or changed, the applicant would have to bring a revised Preliminary Plat back to the Planning Board for review.

Van McQuaden, CEM, Director
 Paradise County Planning and Development
 3200 Brown Street
 Lenoir, North Carolina 27564
 (919) 216-8200
 Fax: (919) 216-8274

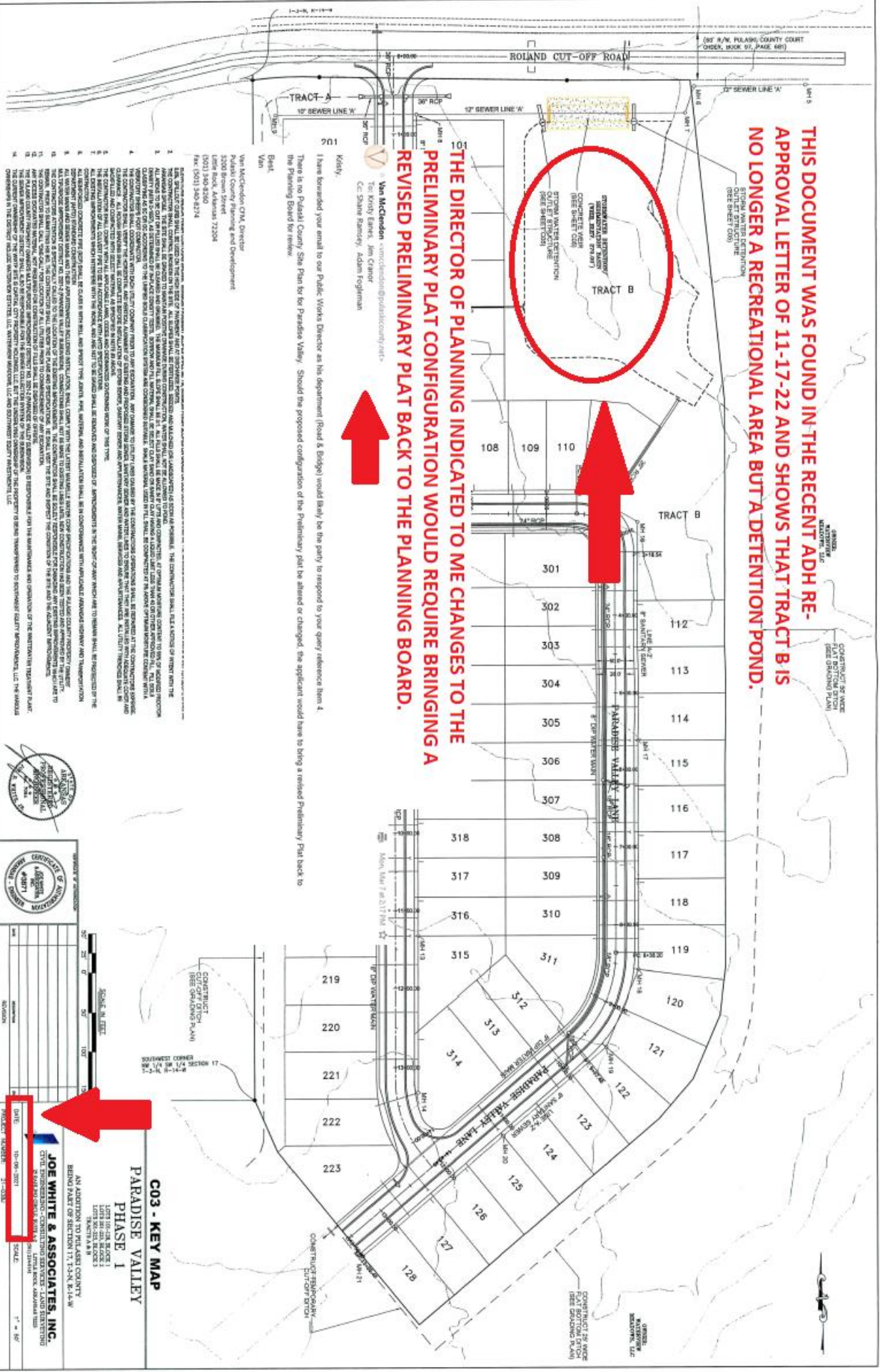
1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL AFFECTED AGENCIES AND AGENCIES.
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NO.	REVISION	DATE
1	ISSUED FOR PERMITTING	10-09-2021
2	REVISED PERMITTING	11-03-2022

JOE WHITE & ASSOCIATES, INC.
 CIVIL ENGINEERING - CONSULTING SERVICES - LAND SURVEYING
 10000 W. STATE STREET, SUITE 100
 RALEIGH, NC 27613
 PHONE: 919.216.8200
 FAX: 919.216.8274
 SCALE: 1" = 60'

CO3 - KEY MAP
PARADISE VALLEY
PHASE 1
 PART OF SECTION 17, T-13-N, R-1-E, W-8
 10000 W. STATE STREET, SUITE 100
 RALEIGH, NC 27613
 PHONE: 919.216.8200
 FAX: 919.216.8274



TRACT B DETAIL: SHOWS IT IS NOW A DETENTION POND AND WAS A RECREATION AREA.
THE PLANNING BOARD APPROVED TRACT B AS A RECREATION AREA.

