

Koon, Nancy

From: Ross Noland <ross@nolandfirm.com>
Sent: Tuesday, April 5, 2022 3:23 PM
To: Water Draft Permit Comment
Subject: Ross Noland Comment for PMCC
Attachments: Ross Noland Comment for PMCC.pdf

Please accept the attached public comment.

Thank you,

Ross

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April 5, 2022

Via Email Only (Water-Draft-Permit-Comment@adeq.state.ar.us)

Faizan Khan
Arkansas Department of Energy and Environment
5301 Northshore Dr.
North Little Rock, AR 72118

Re: *NPDES Draft Permit No. AR005321, Public Comment*

This letter is a public comment on behalf of the Pinnacle Mountain Community Coalition (“PMCC”), its officers, and members. Each topic below pertains to the draft permit AR005321. Thank you for considering these topics.

Failure to Comply with Ark. Code Ann. § 8-4-203(b)(1)(D)

On November 8, 2021, PMCC, under my signature, submitted a letter detailing why the AR005321 permit application failed to comply with the Ark. Code Ann. § 8-4-203(b)(1)(D) requirements for a wastewater treatment plant financial plan.¹ ADEQ sent a letter requesting several items, including, in its first point, an Ark. Code Ann. § 8-4-203(b)(1)(D) plan.² The applicant responded, but those materials did not include a new application with a financial plan.³ I am attaching my November 8, 2021, letter here for purposes of incorporating it into this comment. Any financial information in the record is inadequate to meet Ark. Code Ann. § 8-4-203(b)(1)(D) requirements, and was not attached to a permit application, as required by law.

Permit Transfer

On November 29, 2021, Doug Ford submitted a permit transfer form to ADEQ seeking to transfer the subject application from Southwest Equity Investment to Pulaski County Property Owners Multipurpose Improvement District No. 2021-2.⁴ However, the said district did not exist at that time. Judge Hyde did not sign the Order creating the district until January 12, 2022. The

¹https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0053210_Letter%20from%20Ross%20Noland%20and%20PMCC_20211108.pdf

²https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0053210_Letter%20to%20Rick%20Ferguson_20220106.pdf

³https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0053210_Response%20Letter%20to%20ADEQ%20and%20Additional%20Information_20220118.pdf

⁴https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0053210_Permit%20Transfer%20Form_20211129.pdf

permit transfer should be a nullity. You cannot transfer an application to an entity which does not exist.

Even if the improvement district existed at the time of the transfer application, ADEQ's rules, and the form itself, do not contemplate transfer of a permit application. Documents submitted to other agencies, such as Pulaski County and Arkansas Department of Health approved plans and documents submitted by Southwest Equity Investment, not an improvement district. The form itself references a "permitee," not an applicant, and calls for a buyer and seller of a facility to be named. The improvement district has not received approval from the ADH or Pulaski County, and could not, as it did not exist at the time the agencies granted their approvals. This same issue holds true for documents previously submitted to ADEQ, like the trust fund worksheet, which is submitted by Southwest Equity Investment.

It also appears the permit transfer document is incomplete. Only Rick Ferguson is listed as the only applicant officer, but improvement districts must have at least three commissioners. Additionally, block 16 of that transfer requires a list of any persons with a history of environmental noncompliance who could significantly influence the applicant. Mr. Ferguson is not listed in this block, yet he has a history of noncompliance, as stated in section 5 of the attached November 8, 2021, letter.

Finally, in regards to the transfer, APCEC Rule 6.205 prohibits ADEQ from issuing, renewing, or transferring a NPDES permit for a non-municipal domestic sewage treatment works "without the permit applicant first demonstrating its financial ability to cover the estimated costs of operating and maintaining" the plant for five years. The district did not exist when it sought transfer, and, as discussed above, there is not financial plant in place.

Antidegradation

ADEQ does not perform antidegradation review before issuing permits, as it has not implementation policy to determine what tiered status streams fall into. The Statement of Basis attached to the permit contains a generic statement that "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." This is the

same boilerplate language ADEQ includes in every permit, a practice it has engaged in for a decade, likely more, to avoid meaningful antidegradation analysis.⁵

40 C.F.R. § 131.12 requires delegated state authorities, such as ADEQ, to adopt rules and policies necessary to determine the tiered status of receiving streams. While ADEQ has promulgated an Antidegradation Policy at APCEC Rule 2, Chapter 2, it has never implemented that policy. Thus, it makes no determination regarding the tiered status of the waterway before issuing a permit, and makes no analysis of the cumulative impacts of discharges to waterways. ADEQ cannot continue to ignore 1/3 of water quality standards when issuing permits.

Wastewater Operator License

The purported permit transfer document lists Arlo Jason Cyz as the Class III licensed wastewater treatment operator for the facility. APCEC Reg. 3.403(A)(1) requires a minimum of twenty four hours of approved wastewater training during every two year renewal period. Mr. Cyz's last renewal was July 1, 2021, for a two-year period ending 6/30/23:

▼License Number	▼Employer	▲Licensee	License Level *	Date Issued/ Expires	Last Date Tested	Training Hours
007231	Arkansas Wastewater O&M (501) 661-2623 17 Tanglewood Drive Bryant, AR 72022	Arlo Jason Cyz	3 Municipal	7/01/2021 6/30/2023	12/08/2006	This Year: Past Years: 526 TOTAL: 526

This means Mr. Cyz's previous renewal period was 7/1/19 to 6/30/21. However, it does not appear Mr. Cyz performed any wastewater training during the immediately preceding period:

8/24/2021	062	Out-Of-Cycle Training	8
4/30/2019	018	AWW & WEA Conference	16
5/1/2018	018	AWW & WEA Conference	16
9/20/2016	019	ARWA Annual Conference	16

An operator may renew their license without reexamination APCEC Rule 3.403(A)(1) requirements are met, but is required to seek approval from the Licensing Committee or take a second exam if the APCEC 3.403(A)(1) requirements are not met. It is unclear from the record available whether or not Mr. Cyz is presently properly licensed after after failing to complete

⁵ See Exhibit A, page 10 of pdf found here, response to Interrogatory No. 7:
https://www.adeg.state.ar.us/downloads/commission/p/Closed%20Permit%20Dockets%202006-2021/13-004-P%20SEECO%20Inc%20Bee%20Branch/2013-11-26_SGFL_Reply.pdf

training between 7/1/19 to 6/30/21, as there are no minutes available from the Licensing Committee after February of 2021.⁶

Operational Concerns

Without a proper financial plan in place, it is unclear if the applicant will be able to fund regular maintenance and repairs to the facility. It is also unclear, even in the short term, if it will be able to fund daily cleaning of the facility necessary to maintain optimal performance and compliance with discharge limits. Absent the plan necessary to fund daily operator visits, it cannot be assumed permit limits are achievable in the short term, or maintenance is funded in the long term. Such conditions regularly occur, and as noted in the attached November 8, 2021, letter, lack of funding regularly leads to poor results with non-municipal sewage treatment works.

Specifically, proper sludge management in a system of this size is a concern. The clarifier in this system can cease to function if suspended solids rise too high. The sand filter, initial bar screen, and sludge holding tank in this system also require regular maintenance. If a qualified operator is not properly funded, the system will cause odor, flies, and problems for neighboring landowners. It is not clear from the documents submitted when maintenance will occur, or how sludge and foreign/trash material will be managed and disposed of by the applicant in order to prevent offsite impacts.

Noise and odor are persistent concern for these facilities. It is not clear from the record presented how loud (the decibel rating) the blower for the facility is, or how odor will be controlled from the vent. Scrubbers and sound-dampening devices can be employed to address both these concerns, but there is no mention of such products in the specifications for this facility.

Flooding

Other commenters are addressing flooding, but it must be noted that these concerns are legal in addition to practical. The Clean Water Act protects wetland areas, and the Rivers and Harbors Act prohibits placing anything in proximity to navigable streams which, through flooding, may obstruct that stream. The maps and information submitted during this comment period show the facility is in the 100-year flood plain. Placing wastewater plants in flood plains is not recommended by the 10-state standard referenced by both ADEQ and ADH.

⁶ <https://www.adeq.state.ar.us/water/enforcement/wwl/committee.aspx>

Receiving Stream

The immediate receiving stream is intermittent at best. Mill Bayou is, during many times of the year, a very low-flow system. These streams have little or no assimilative capacity due to their low flow. When a discharge to an intermittent or low flow stream is proposed, water quality based effluent limitations, such as those on pages 5 and 6 of the Statement of Basis for this permit, are nearly impossible to meet.

Water quality standards are applicable at the point where discharge meets a stream. Here, standards of any kind cannot be met when the receiving stream has little or no flow during certain times of the year. This concern extends to protection of designated uses in streams with low flow. There is no indication in the permit application or draft permit that such concerns with intermittent and low flow streams have been addressed with advanced treatment requirements, avoidance through rerouting, or measures to protect immediately downstream neighbors.

Sincerely,

/s/ Ross Noland

Ross Noland

Att.

ATTACHMENT



November 8, 2021

Via Email Only (alan.york@adeq.state.ar.us)

Alan York
Associate Director
Department of Energy and Environment
5301 Northshore Dr.
North Little Rock, AR 72118

Re: *NPDES Draft Permit No. AR005321, Southwest Equity Investments*

Mr. York:

I submit this letter on behalf of the Pinnacle Mountain Community Coalition (“PMCC”) and its members in response to your October 7, 2021, letter to the President of that organization, Chris Centofante. PMCC specifically requests that the Division of Environmental Quality (“Agency”) reverse its’ determination the application for Draft Permit No. AR005321 is administratively complete, re-open the public comment period for that application, or deny NPDES Permit No. AR 005321. The factual and legal basis for this request follows with accompanying attachments.

1-The Permit No. AR005321 Application fails to Comply with Ark. Code Ann. 8-4-203(b)(1)(D)

The initial permit application for AR005321 does not contain a 5-year financial and operations plan.¹ This is an essential element to an application for a nonmunicipal domestic treatment works, such as this one, and an emphasis of the Legislature as recently as 2017.² Specifically, Ark. Code Ann. 8-4-203(b)(1)(D) requires that “each application for the initial permit...for a nonmunicipal domestic sewage treatment works...shall be accompanied by an assessment” which includes a five-year estimate of operating costs, list of capital expenditures, and a financial plan. “Each” and “shall” indicates mandatory requirements. The application for NPDES Permit AR05321 does not comply with state law, and has never been administratively complete.

¹ Southwest Equity Investment permit application, submitted by PMI September 2, 2020, available online https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0053210_Initial%20Application_20200902.pdf.

² *An Act to Amend the Law Concerning Nonmunicipal Domestic Sewage Treatment Works*, 2017 Ark. Acts 987, available online <https://www.arkleg.state.ar.us/Acts/FTPDocument?path=%2FACTS%2F2017R%2FPublic%2F&file=987.pdf&ddBiumSession=2017%2F2017R>.

The Legislature's concern and emphasis on nonmunicipal domestic wastewater treatment plants stems from a persistent management problem in this state. For example, the package wastewater treatment plant at Marbles Falls failed in 2009 due to lack of operation and maintenance, creating a public health concern and water quality issues.³ The situation there became so dire that the predecessor to your Agency threatened to turn off the water the area⁴ before a temporary solution was implemented. Similar failures of management and maintenance have occurred in other parts of the state, such as with Washington County POID #5, Flushing Meadows, Callegan Creek, Blackstone Ranch, Chicot Sewer, and Huntington Estates.

In addition to financial planning requirements, the Legislature also chose in 2017 Ark. Acts 987 to bar new permits for treatment plants operated by a property owner's association. Ark. Code Ann. 8-4-203(b)(1)(e)(i). This is important to note because the permit for the nearby Waterview Estates development is held by a property owner's association.⁵ This Waterview Estates permit, issued while 2017 Ark. Acts 987 worked through the legislative process, is likely one of the last, if not the last, initial permit for a nonmunicipal domestic treatment works issued to a POA. This is important because Mr. Rick Ferguson is a principal member of the entity which created Waterview, as well as the entity seeking the permit which is the subject of this letter, according to contact information for each permit in the ADEQ's database.

Mr. Ferguson's previous practice of tasking a property owner's association with operating a treatment works is no longer allowed by state law. However, there is no indication in the record for this permit who the long-term proposed permittee is, who will operate the permit going forward, or how this unknown person or entity will pay for maintenance. Due to the lack of a five-year financial and operations plan, it was incorrect for the Agency to determine on October 13, 2020, that the subject permit application was administratively complete.⁶ Thus, PMCC

³ See eg. National Park Service Advisory, June 22, 2010, available online <https://www.nps.gov/buff/learn/news/mill-creek-sewage.htm>, and Harrison Daily Article, *Marble Falls Mired in Sewage Struggle*, August 12, 2009, available online https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0034088_Marble%20Falls%20News%20Article_20090812.pdf.

⁴ *Sewer Leak has State Looking at Water Cutoff*, Arkansas Democrat Gazette, July 2, 2010, available online <https://www.arkansasonline.com/news/2010/jul/02/sewer-leak-has-state-looking-water-cutoff-20100702/>.

⁵ NPDES Permit No. AR0050393, Waterview Estates WWTP, held by the WVE Property Owners Association, Inc., available online at <https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/Permits/AR0050393.pdf>.

⁶ See https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0053210_Completeness%20Letter_20201013.pdf.

requests that the Agency reverse the administrative completeness determination due to the lack of compliance with Ark. Code Ann. 8-4-203(b)(1)(D), and reopen the public comment period on the subject permit application if, and only if, the applicant submits a complete application.

PMCC understands that the Agency is now affording the applicant an opportunity to supplement its application with the Ark. Code Ann. 8-4-203(b)(1)(D) required documents.⁷ It is PMCC's position that the Agency cannot remedy an erroneous administrative completeness determination with a supplement, as the very definition of "administrative completeness" encompasses only applications that contain "all information required by statute" when submitted. APCEC Reg. 8.103(G). Such a condition is not present here, and thus it is impossible for this permit to truly be "administratively complete."

Allowing submission of an entire section of a permit after the public comment period is closed is not consistent with the Agency's directive to take public comment only on "an administratively complete application for a permit," as this permit was not administratively complete during its public comment period. APCEC Reg. 8.205(A). Doing so will set a precedent that allows applicants to withhold information prior to the public comment period, supplement after the comment period closes, and thus circumvent the public's right to comment. This is especially true in the present situation where, as discussed above, long-term operation and ownership of nonmunicipal treatment works is an ongoing issue of public concern and legislative attention due to the consistent failure of operation and maintenance of facilities like what the applicant proposes.

Finally, while not an argument grounded wholly in state law or APCEC regulation, basic fairness is at issue. It is unclear from the record to date who and how the facility at issue will operate because the applicant failed to meet its application burden, yet the Agency is giving the applicant a second chance to submit significant sections of its permit. However, as of now, the members of the public will not be given the same second chance to provide public comment on an ever-changing permit application which may soon include significant new sections which were never subject to public notice. This particular permitting process is fundamentally flawed, as it is slowly moving outside the bounds of state law and APCEC regulations. Thus, as an alternative to the arguments above, PMCC requests the Agency deny the permit due to the unreconcilable irregularities of this permitting process.

⁷ ADEQ Letter Dated October 28, 2021, available online at: [https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0053210_Letter%20to%20Ferguson 20211028.pdf](https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0053210_Letter%20to%20Ferguson%2020211028.pdf).

2-The Permit No. AR005321 Application fails to Comply with Ark. Code Ann. 8-4-203(b)(1)(A)

State law requires a permittee to certify that it complies with 1-trust fund requirements, financial assessment, and all local planning requirements prior to submitting its application. Ark. Code Ann. 8-4-203(b)(1)(A)(i-iii). These conditions are not met here. Attached to this letter are two documents which further discuss this fact.

First is a letter from Mr. Al Drinkwater which discusses these issues and more. See Attachment A. Second is an email from Ms. Shada Roberts of the Arkansas Department of Health discussing how, exactly, the platted plans for the subject development have changed so drastically since they were first submitted to the Pulaski County Planning Board (a local planning authority, as contemplated by Ark. Code Ann. 8-4-203(b)(1)(A)(ii)(b)) to no longer constitute the same plat and planning decision as initially submitted to the County. See Attachment B.

I do not repeat the points in Attachments A and B here, but rather ask that you incorporate them by reference. I also do not repeat each of the arguments regarding administrative completeness, public comment period, and permit denial again, but rather state each of those requests and arguments in Section 1 of this letter also apply to Section 2.

3-Additional Information Requested by the Agency

It is PMCC's understanding through email exchanges that the Agency wishes to review documents recently obtained from other agencies. In this category, attached here is a letter from the Arkansas Department of Heritage stating that Heritage determines a large Native American "archeological site" will "be impacted" by this treatment works, and thus Heritage requests the Agency consider these "negative impacts" in its permitting review. See Attachment C. A second requested document is a map produced by CAW of the drainages in the area. See Attachment D.

4-Developing Information Regarding Flooding

PMCC members are actively gathering photographic and mapping evidence of flooding in around the proposed treatment facility site. This letter is not a medium conducive to providing dozens of pictures, but we will be glad to arrange for the transfer of those pictures to the Agency upon request. Additionally, the attached map, obtained by PMCC members from the Arkansas Department of Agriculture, shows the proposed site at risk of flooding. See Attachment E. Pulaski County, Arkansas Code, Chapter 7 requires floodplain development permits. This floodplain development permit, like the plat approval discussed above, is a local government decision which is a prerequisite to permit approval pursuant to Ark. Code Ann. 8-4-203(b)(1)(A)(ii)(b)

5-Ferguson Non-Compliance History

Mr. Ferguson, the principal member of the applicant for the permit at issue, displays a history of non-compliance at his permitted facilities. Consistent non-compliance is grounds for denial of a new permit. APCEC Reg. 8.204(A) and (D)(4). Specifically, at Waterview Estates, Mr. Ferguson’s neighboring development, the wastewater treatment works experiences difficulty remaining in compliance. Inspection reports note the following non-compliance issues for NPDES Permit No. AR0050393:

- August 30, 2011, Inspection: Treatment facility shows “significant” signs of corrosion constituting a violation. Remedial measures recommended.⁸
- July 31, 2013, Inspection: Multiple violations noted regarding chlorine tablets, vegetation control, DMR submission, and other violations.⁹
- August 19, 2015, Inspection: Multiple violations again observed regarding improper record keeping, operator deficiencies, and chlorine tablet use.¹⁰
- August 12, 2021, Inspection: Multiple violations, including an inoperable pump, maintenance issues, equipment calibration requirements, and DMR violations.¹¹

Mr. Ferguson’s development also display stormwater permit violations, including at Waterview stormwater permit ARR150142, with violations found during multiple inspections from 2008 to 2011, and at Parkway Trails, where the Agency found violations on November 14, 2019.¹²

6-Public Concerns for Water Quality and Environment

PMCC, Audubon’s local chapter, and the Sierra Club submit letters for your consideration. See Attachment F. Each details issues with water quality in the West Pulaski County area, and state why the proposed permit is not consistent with maintaining high water quality in the area. For the sake of brevity, I am not summarizing those letters here, but do ask you incorporate them.

⁸ See inspection report available online here:
<https://www.adeg.state.ar.us/downloads/WebDatabases/InspectionsOnline/060965-insp.pdf>.

⁹ See inspection report available online here:
<https://www.adeg.state.ar.us/downloads/WebDatabases/InspectionsOnline/072890-INSP.pdf>.

¹⁰ See inspection report available online here:
<https://www.adeg.state.ar.us/downloads/WebDatabases/InspectionsOnline/087056-insp.pdf>.

¹¹ See inspection report available online here:
<https://www.adeg.state.ar.us/downloads/WebDatabases/InspectionsOnline/117871-insp.pdf>.

¹² See inspection report available online here:
<https://www.adeg.state.ar.us/downloads/WebDatabases/InspectionsOnline/111347-insp.pdf>.

Conclusion

PMCC thanks the Agency for considering the additional information submitted here. We again request that the Director consider the fact that this permit application and the conditions surrounding it continue to evolve despite the public comment previously closing: the plats submitted to the county are no longer accurate, the permit application lacked required financial and operating plans at the time the Agency deemed it administratively complete, significant cultural resources are now determined to be present in the area, and information regarding flooding continues to come forth. For these reasons, we ask that the Agency reverse its administrative completeness determination and allow for additional public comment if, and only if, a full application is submitted, or in the alternative, deny the present permit application outright. These actions are well with the Agency and its Director's powers, but also will represent a decision to observe the fact the Agency did not have required and necessary information before at the time it deemed the permit administratively complete. Thank you again for considering this submission. PMCC and myself are available to provide additional information or clarifications as needed.

Sincerely,

/s Ross Noland

Ross Noland

cc: jeff.lemaster@adeq.state.ar.us

ATTACHMENT A

Town & Country Services

89 Underwood Road
Bigelow, Arkansas 72016
(479) 422-4826
Alford_Drinkwater@Yahoo.com

October 28, 2021

Ross Noland
P.O. Box 251402
Little Rock, Arkansas 72225

Dear Ross,

Sent by Email: Ross@nolandfirm.com

I have reviewed some of the documents posted on the DEQ website relating to the Southwest Equity Investments, LLC (Paradise Valley Subdivision) wastewater treatment plant. The following are items that appear to be problematic for DEQ in continuing on its current path toward issuing a permit for this facility.

1. DEQ is in the process of issuing a construction permit (AR0053210C) for the facility. That process includes the Arkansas Health Department (ADH) providing an initial review for each new wastewater permit application. When ADH's review is complete it provides DEQ notice of its approval or no objections. After receipt of ADH's approval, DEQ completes a draft permit and sends it out for public comment.

Regulation §6.202(D) states, "Prior to obtaining a construction permit for domestic wastewater discharges from ADEQ, an approval letter from Arkansas Department of Health is required." ADH did not have the correct wastewater application for the Southwest Equity Investments wastewater treatment plant at the time it completed its initial review. It subsequently issued a letter of no objection to DEQ on April 27, 2021 on the basis of an incorrect application. ADH did not complete an initial review of the correct wastewater treatment plant in question prior to DEQ opening the first public comment period on October 18, 2020 or the second public comment period on April 11, 2021.

Because Southwest Equity Investments had not furnished to ADH the current application and ADH consequently had not reviewed the current application, ADH could not have issued a no objections letter to ADEQ regarding the current application. This is a material matter that can only be addressed by opening a new public comment period that will provide standing to the hundreds of people in the community that wish to be heard. By opening a new public comment period, it will allow all parties, DEQ, ADH, and the public to understand what the correct application is, what it contains, and what environmental impacts are most likely.

2. Southwest Equity Investments has indicated that it plans to discharge effluent into an unnamed tributary of Mill Bayou. The unnamed tributary provides drainage for surface water only and is therefore dry most of the year with some pockets of water captured in low or restricted areas that often form wetlands. The effluent from the WWTS will make up all the water in most of the unnamed tributary for most of the year. The unnamed tributary and the wetlands which it feeds into will suffer a critical shock from the effluent.

On September 29, 2021, Shada Roberts, ADH District 8 Engineer, issued a response letter to Doug Ford, the permit engineer for Southwest Equity Investments (SEI) responding to their latest

submissions. In item 14.c of the ADH letter, Shada Roberts states, “The outfall needs to extend to the main channel of Mill Bayou, and must be on the land owned by the entity. Please show main channel and verify ownership.”

The main channel of Mill Bayou is approximately one mile from the proposed WWTS. The unnamed tributary that SEI has proposed to discharge into travels through several people’s property before it reaches Mill Bayou. A quick review showed that perhaps as many as six or more property owners would have to provide an easement, right of way, or sell their property outright to SEI to allow its effluent pipeline to reach Mill Bayou.

This is an important point that indicates that ADH has some understanding of the irreparable damage that a WWTS discharging into a wet weather tributary of Mill Bayou will have on the environment and ecology of the area.

3. DEQ cannot issue an NPDES permit to a private WWTS without financial assurance that the private party will be able to operate and maintain the WWTS over time. Developers of private WWTS are required to provide insurance, letters of credit, surety bonds, or other securities as provided in Regulation 6.205. Developers of private WWTS also have the option of forming an improvement district that has the power to bill users, attach bills to property taxes, and otherwise raise funds to support its obligations with regard to the WWTS.

It appears that SEI does not want to provide the financial assurance that it will be able to fund operation and maintenance of the WWTS for a period of five years. It also appears that SEI has not formed an improvement district that will be responsible for the WWTS. Some method for providing assurance that the WWTS will be operated and maintained long term will have to be provided by SEI or no NPDES permit will be issued.

This is an important point that should be addressed by DEQ before a draft construction permit is issued. A WWTS that has insufficient means to support operation and maintenance will have significant negative impacts on the surrounding community. Knowing how a private WWTS will be funded long term should be made clear in the initial permit application.

As Shada Roberts’ stated in Part 1.a. of her letter of September 29, 2021, **“Not Resolved. Please submit complete and filed Sewer Improvement District petition as filed with the county. Provide the Sewer Improvement District number and a description of the Board’s responsibilities pertaining to the operation and maintenance of the wastewater treatment plant. The submitted filing appears to be draft and does not include the assuming responsibility of operating and maintaining the wastewater treatment plant in the wording (title states specifically only for Paradise Valley Subdivision). Covenants and Restrictions (as it applies to the WWTP).”**

The specifics of a sewer improvement district or financial assurance offered for the WWTS is of major importance and should be dealt with before the final permit for construction is issued. There is no reason to cause expenditure of significant public resources at both the state and local level in response to an application that, in the end, may not qualify for an NPDES permit.

4. Residents on Roland Cutoff Road have noticed additional flooding over the past 12 to 15 years with little to account for it in that part of the Mill Bayou drainage basin which they reside in. We have discovered that Stormwater from the Waterview Estates subdivision, which is located in the Maumelle River drainage basin, is diverted from the Maumelle River drainage basin into the Mill

Bayou drainage basin. One of the diversions sends significant stormwater from Waterview Estates into a tributary going through Paradise Valley subdivision then across Roland Cutoff Road. That area of Roland Cutoff Road has begun to flood frequently over the past 10 to 15 years, which falls into the same time frame that Waterview Subdivision was developed.

This is a significant failure on the part of regulators for not surveying the drainage and flood potential they were created when they moving stormwater from one drainage basin to another. Perhaps it is an even greater failure that no one gave the community notice that they were going to experience more flooding as a result of the state and county government's actions.

These are just a few of my thoughts regarding the Southwest Equity Investments, LLC wastewater permit application. There are many problems that the community should be allowed to address in a new public comment period. The only justifiable route DEQ can take at this point is to open another comment period to allow for a full and fair discussion of all the problems we have just begun to uncover. This is all about process and following the legal and correct process. There was an incorrect application submitted to ADH by SEI which resulted in the process becoming fouled and incorrect. DEQ must follow their own process in a correct and fair way, and not cover up the fact that the process was pushed off course and became fouled when SEI submitted different applications to different state agencies.

Sincerely,

Al Drinkwater
President

ATTACHMENT B

From: Shada Roberts <Shada.Roberts@arkansas.gov>

Date: September 28, 2021 at 5:34:18 PM CDT

To: randall.green.5@us.af.mil, patrickhays70@gmail.com, emc55555@gmail.com, cbconors@dportlaw.com, ddoyne@doyne.com, Kristy Eanes <keanes18@yahoo.com>, soniaeileenf@gmail.com, srj.kauffman@gmail.com, mwilson@firstarkansasbank.com, valyagos@cebridge.net

Cc: vmcclendon@pulaskicounty.net, jcranor@pulaskicounty.net

Subject: Approval needed by Arkansas Department of Health

Good morning to the Pulaski County Planning Board and Staff,

I am the District 8 Engineer with the Arkansas Department of Health in the Engineering Section. We have been reviewing a project called the "Paradise Valley Development". I was forwarded the meeting minutes from the Pulaski County Planning Board meeting from February 23, 2021 by one of the developers (Mr. Rick Ferguson) engineer, Mr. Doug Ford of PMI showing approval by the Pulaski County Planning Board for the Paradise Valley Subdivision.

ADH has asked the Developer and his engineers to provide a specific approval for the wastewater treatment plant as well as the subdivision. Is the board aware that the design for the Paradise Valley Subdivision (formally the Saddle Ranch Subdivision) was modified from the originally proposed plan?

Here is some history, as requested by Ms. Eanes:

- The original plan submitted to ADH in 2018 proposed a 76 lot subdivision with water and gravity sewer that was collected to a pump station and then the raw wastewater was to be pumped to the existing Waterview Estates Wastewater Treatment Plant. ADH approved this plan in 2018 based on this design. ADH approvals are only applicable for one year, after one year the approval must be updated.
- Mr. Ferguson arrived at ADH Engineering Office in Little Rock with the original Saddle Creek Subdivision plans in late February 2021. Mr. Ferguson asked for an updated approval and assured me that no changes had been made to the design or proposal.
- During my re-review for updated approval, I noted that the engineer stamp was not executed (i.e. signed and dated). (Just FYI – ADH staff have been trying to make sure this condition is met on all submitted plans as required, it has been a detail that has been missed in past reviews.)

- I contacted Mr. Tim Daters at White-Daters to ask for him to send a signed set of plans. Mr. Daters relayed that Mr. Joe White, PE was now responsible for the development and that Mr. White had left White-Daters in December 2020, so he asked that I contact Joe White for updated plans.
- After speaking with the Chief Engineer here in the Engineering Section (Lance Jones), it was determined that the plans needed to be corrected to show the correct engineering firm with responsibility and stamped by the responsible engineer (and the stamp executed).
- In March 2021 I contacted Joe White to ask him to make these changes, as well as to stamp and execute the Saddle Ranch plans. Mr. White did not have the AutoCAD files for the plans nor did he have a hard set of plans. He asked if I could scan and email him the originally approved plans, at which time he would modify them in PDF (or redraw them) and send them back. He did not re-draw the plans, but modified the PDF file to change out the stamp and company information. He executed his engineering stamp on all sheets. No other modifications were made to the plans.
 1. Please note that the plans proposed a gravity sewer system to a pump station which would then pump the raw sewer through a forcemain to the existing Waterview Estates WWTP for treatment and discharge under an existing ADEQ NDPES Discharge Permit. No mention of a new WWTP for this subdivision or the plans for such were replayed to ADH Engineering in the process of this updated approval.
 2. FYI: In 2016 ADH District 8 Engineering also concurred with the expansion of the existing Waterview Estates WWTP from 0.2 MGD to 0.5 MGD. I believe this did occur in the intervening years as aerial photos indicate (possibly) two unused package WWTPs and a newer package WWTP installation that appears to match the plans submitted and approved by ADH. ADEQ shows the discharge permit is for 0.2 MGD, and not 0.5 MGD, so the size and age of the Waterview Estates plant is not confirmed at this time.
- ADH updated the approval for the Saddle Ranch plans based on the above information and files in May 2021.
- In July 2021, I received a notification from ADEQ about a new wastewater treatment plant called Paradise Valley. In the course of our review for new WWTP, we make sure the plans for new WWTP and any subdivisions connected to the WWTP have been submitted to ADH review and approval. As I did this digging, I discovered that this Paradise Valley

WWTP was actually for a subdivision called Paradise Valley Subdivision – but upon further review, I discovered that in fact this was the same exact development proposed as “Saddle Ranch” which I had just reapproved but without the information that the plan had changed to installing a new WWTP on property across the street from the subdivision development instead of pumping the sewer to an existing WWTP.

- I contacted the engineer, Mr. Joe White, who confirmed a new WWTP stating that the developer was going to send in the plans for the WWTP after ADEQ had approved it all. This is in violation of Regulation 6 which ADEQ uses for writing all permits. ADEQ construction and discharge permits require ADH approval of the WWTP plans and specifications prior to issuance.
- After discussions with ADEQ, ADEQ lead to believe that the “project” had been approved by ADH (from incorrect or incomplete information provided to ADH from February 2021 to May 2021).
- ADEQ immediately rescinded the construction and discharge permit.
- Mr. Doug Ford, who is the engineer designing the WWTP and is with PMI, then sent all files, calcs, plans, and specifications to me for ADH Engineering to begin review. Mr. Ford was told ADH had already approved “the project”.
 1. It was relayed to Mr. Ford that the development of the site across the street from the subdivision was never mentioned or indicated to ADH prior to July 2021 that any type of plan related to Paradise Valley or Saddle Ranch had been made. It is also interesting to note that the permit process thru ADEQ began in early-2020.
 2. Closely following the submittal of the Paradise Valley WWTP plan, specs, and calculations – Mr. Joe White, PE submitted the revised design for the Saddle Ranch Subdivision, now called Paradise Valley Subdivision. Mr. White was notified that the plans and specifications for the project called Saddle Ranch was disapproved and the review/approval process for the Paradise Valley Subdivision would start the review all over because the whole proposed project had changed.
 - Please note that the “reapproval” issued on May 2021 for “Saddle Ranch Subdivision” was for ONLY the subdivision and developments on the south of Roland Cutoff Road. The plans submitted by Mr. White for a re-approval as Mr. Ferguson had requested had no changes to the design showing water mains and a gravity sewer collection system that gathered at a pump station where the sewer was to then be pumped to the existing Waterview Estates WWTP for treatment under an existing NPDES discharge permit. The

plans submitted for “reapproval” did not indicate a name change.

- The projects are being filed under ADH Reference numbers as follows:
 - 104461 Paradise Valley (FKA Saddle Ranch) Subdivision and Pump Station (ADH Comment Letter 1 attached)
 - 116659 Paradise Valley Wastewater Treatment Plant (WWTP) (ADH Comment Letter 1 attached)

- In the course of our review we have been contacted by the following regarding this development. I have been working with the Pulaski County Board Member Ms. Kristy Eanes as well as Mr. LeMaster as ADEQ to respond to requests, questions, and provide information if available regarding this matter.
 1. Citizens/Home/land owners in the Roland Cutoff area with questions about the “WWTP being constructed in their backyard, in a floodplain/wetland”, and how that will effect Water Quality.
 - ADH does not review the body of water proposed for effluent discharge or water quality of the water body, nor does ADH set discharge effluent limits. We strictly look at the surrounding area for our required separations (300-feet from all structures/homes – this is met at the Paradise Valley Site and 100-foot of all wells (the Maumelle Water Corp well #1 is 5900-feet from the plant discharge site), as well as looking at such things as a well-documented swimming hole, or where there may be a concern about public health or safety with regards to the location of the WWTP. I have attached the ADH Wastewater Buffer Policy as well as the Rules Pertaining to Public Water Systems, and the Rules Pertaining to General Sanitation which may answer many questions on what ADH reviews WWTP for. We typically only regulate Drinking Water Systems, but we are tasked with the technical review of WWTP which work in tandem with ADEQ permits. Here is a link to the ADH “Water and Wastewater Plan Review Process”: [Water and Waste Water Facilities Arkansas Department of Health](#).
 - The Arkansas Department of Environmental Quality (I term them “ADEQ” but that is an outdated acronym, but is what I still use after 17-years of engineering) are the agency which grants permits for wastewater plant effluent (known as NPDES Discharge Permit) and grants permits for construction projects of all types (known as NPDES Stormwater or Construction Permits). The Discharge Permit

is where a specific entity (such as the Paradise Valley WWTP) is granted a permit to discharge treated wastewater effluent to “waters of the United States”. ADEQ receives permits and is tasked with the evaluation of many parameters before issuing any permit. We have been told to contact Jeff LeMaster (jeff.lemaster@adeq.state.ar.us) with ADEQ who is compiling all correspondence for this matter in regards to Mill Bayou, water quality, flooding, or the ability of the proposed WWTP.

2. Mr. Harrod, the Maumelle Water Corporation General Manager, contacted me a couple of weeks ago upset to find out about the changes to the plans for the development. Mr. White had assured him there would not be a new WWTP constructed for Paradise Valley. Mr. Harrod stressed that Maumelle Water Corp needed to re-review the proposed development (included in the new WWTP) and that the plans needed to indicate who the sewer utility would be – the plans that had been resubmitted by Joe White for Paradise Valley Subdivision indicated the sewer utility as Maumelle Water Corp. Mr. Harrod stressed they did not want to be in the sewer business. I have asked Mr. Ford and Mr. White to contact Mr. Harrod at Maumelle Water Corp and obtain their approval and a letter stating the utility is willing to take over the water mains and operation/maintenance/billing of the water system of the Subdivision.
- Ms. Eanes is in discussion with ADEQ regarding the existing Waterview Estate WWTP that Mr. Ferguson owns and operates which is in close proximity to the Paradise Valley WWTP site and is also the developer of the Waterview Estates and WWTP. Her discussions have involved the performance of the Waterview Estates WWTP. ADEQ will have to speak to the permit limits, effluent quality, water quality, any analysis or sampling, operations, maintenance, etc. pertaining to both WWTPs.
 - Due to the many changes and requests for information and questions posed – ADH is seeking to ensure that all legal bodies in the area of this Development are aware of the changes and asking for the entities/agencies to provide comments as review for subsequent approval or an approval for the Subdivision and the WWTP.
 - ADH is nearing the point where we can approve the design for the subdivision and the WWTP. I do want to assure the Board that Mr. Ford is a very competent and knowledgeable engineer and has been very accessible and responsive to all of ADH questions and comments. We are currently working through a few last items and minor technical questions before we issue our approval.

- **These remaining items needed for ADH approval of the Paradise Valley WWTP are as follows. Items we are requesting Pulaski County Planning Board provide are highlighted in RED, if you could please respond as the Board regarding the request:**
 1. The paperwork for the operating and maintain responsible party who will be in charge of the WWTP and the subdivision collection system. This involves Mr. Ferguson legally creating a Sewer Improvement District or other legal body, through filings in the Pulaski County Courts including Articles of Incorporation, the legal bodies Rules and Guidelines (to include operation, maintenance, funding, bill collection, repairs, etc.) and making sure the legal body has the authority to address any discharge or sewer system issues that may arise.
 2. Verification of planned/proposed operator. Currently, Mr. Ferguson has contracted with the same licensed operator who already operates the Waterview Estates WWTP nearby. The WWTPs are the same systems (called the Tipton Series by Fluence Corp Package Wastewater Treatment Plant. You can Google that name and you will be able to look over the website for Fluence Corp and the documentation available from them for this system. They are a reputable company with a good, standard treatment product.
 3. Verification from Pulaski County Planning Board that the WWTP Site has been submitted to the Board for review.
 4. Verification from Pulaski County that the "Floodplain Development Permit Application" has been submitted.
 5. Approval of Subdivision for Water System from Maumelle Water Corp.

Doug Ford is technical and knowledgeable, and has been working with the Fluence Corp engineers for the Tipton Series WWTP to make sure all our questions are answered. I wanted to assure you that he has been very diligent with responding to our comments and making modifications as needed, as well as responding to ADEQ and working with Joe White and the developer Mr. Ferguson. It is my understanding that he took on the role of coordinating all these parts of the project in its entirety as a late date, but he has efficiently and effectively been able to wrap up the loose ends, as well as making sure all entities and agencies are satisfied with what is needed.

As for ADH Engineering Section, the approval of the WWTP will be in regards to the technical aspects of the WWTP, as well as from the standpoint of protection of Public Health. The Wastewater will be treated through a 3-part system that includes filtration, which is above and beyond what many wastewater treatment plants do for treatment. The plant will also include disinfection by chlorination (a 30-minute detention time), and de-chlorination if required by ADEQ permit (this works to protect the biota of the receiving stream). Many of the parameters listed in the ADEQ effluent permit are for nutrients or parameters already found in natural water bodies. All of the documentation

for the WWTP is available for public access at the following link: [PDS | DEQ \(state.ar.us\)](#) Use search of Permit Number: AR0053210. You then scroll down to the underlined permit number in the table and click on the number to be taken to another window with a series of links. Click the link for "View Permit Information" to access all the calculations and permit information and submitted items on this WWTP. You can contact ADEQ with any questions, or you can always contact me and I may be able to assist.

The draft permit limits are listed under the "preliminary limits response letter" date 2020-03-04. For comparison, you can also look at the limits permitted for all other WWTPs in the state of Arkansas by simply searching by "name" or "County". The draft limits are for: CBOD (measure of the waste particles in the flow, typical domestic raw sewage is about 250 mg/L so the reduction in the permit to 15 mg/L or 20 mg/L, depending on season, is significant decrease and is telling how effective the proposed system is at treating wastewater), total suspended solids (which are usually non-biological solids like grit), ammonia-nitrogen is being permitted and monitored as this is a key indicator of pollution and contamination so by permitting this ADEQ is more closely monitoring the quality of the effluent, dissolved oxygen is monitored to ensure the effluent stream won't take up available oxygen in the stream that fish and other aquatic animals use to survival, total residual chlorine is being permitted and monitored to ensure the chlorine in the effluent stream isn't going to adversely affect those fish and plants and other biota in the water, pH is permitted and monitored to ensure the neutrality of the effluent stream, and finally fecal coliform is monitored and permitted in all effluent streams as an indicator of the effectiveness of the treatment taking place. Fecal Coliform is a subset of E. Coli which is a naturally occurring bacteria in all dirt, water, life form waste, etc. Fecal Coliform is usually only found in mammal waste (not just humans but also cattle, wildlife such as racoons, deer, squirrel, rabbits, etc.) so there is always some level of fecal and e coli in any natural water body. Effluents are disinfected in order to keep the fecal coliform levels low so they are not harmful. You can read more about these parameters and what they mean on the EPA website or ADEQ website. ADEQ requires monthly reports be submitted with effluent readings. They make surprise visits and inspections as well as monitor discharge readings, and monitor the various water quality monitoring stations that are placed along most waterways throughout the state of Arkansas and can be accessed remotely for 24/7 access to data of water quality. So ADEQ issues there discharge permits but they also monitor and regulate the WWTPs that are permitted.

Finally - one comment I have been asked is about the land able to perch (pronounced "perk"). This is not like a traditional septic system which does not involve these 3-levels of treatment and instead discharges the liquid part of wastewater to a leche field to be treated biologically by natural organisms contained in the earth. When someone says a land won't perch, this in regards to the leche field type of treatment often seen in septic type systems, meaning the land is too saturated or the soil is of poor quality or too porous to effectively absorb and treat wastewater. The proposed system is a small scale, technologically advanced wastewater treatment plant that is comparable to the system run by Little Rock Water Reclamation Authority, only on a much smaller scale.

I hope this email is able to bring the Pulaski County Planning Board up to speed and helps to address any remaining issues on the Paradise Valley WWTP site. I hope this information also is able to put you at some ease on what is being proposed, and helps you to in turn educate and inform the citizens of Arkansas under your purview. This project has been reviewed by a team of ADH Engineers that have decades of experience. So please feel free to contact me with any ADH related questions, if I am unable to answer I can ask the supervisory team who have helped in this review and other WWTP reviews to provide a response. I want to thank Ms. Kristy Eanes for working with me to coordinate correspondence and answer questions I have had regarding the Board.

ADH Engineering hopes to issue our approval by the end of this week or the first of next week. Thank you again for your patience and time.

Respectfully,

Shada Roberts

ATTACHMENT C



Asa Hutchinson
Governor
Stacy Hurst
Secretary

November 4, 2021

Mr. Alan J. York
Associate Director, Office of Water Quality
Division of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

Re: Pulaski County: Roland
Public Comment: ADEQ
Proposed Undertaking: Paradise Subdivision Wastewater Treatment Plant

Dear Mr. York:

The staff of the Arkansas Historic Preservation Program (AHPP) in coordination with archeologists from the Arkansas Archeological Survey were contacted by members of the Pinnacle Mountain Community Coalition regarding a possible archeological site adjacent to the proposed location for the Paradise Subdivision Wastewater Treatment Plant along Mill Bayou in Roland, Arkansas. A site visit was conducted, and it was determined that there is a large archeological site that will be impacted if the wastewater treatment facility is constructed.

We are in the process of mapping and recording the visible landmarks at the site and research is ongoing as to the time period for when the site was occupied. It is most likely a prehistoric Native American site that holds a great deal of sacred significance to tribes that were in the area prehistorically and historically.

We respectfully request that any negative impacts to the site be considered during the permitting review for this wastewater treatment plant.

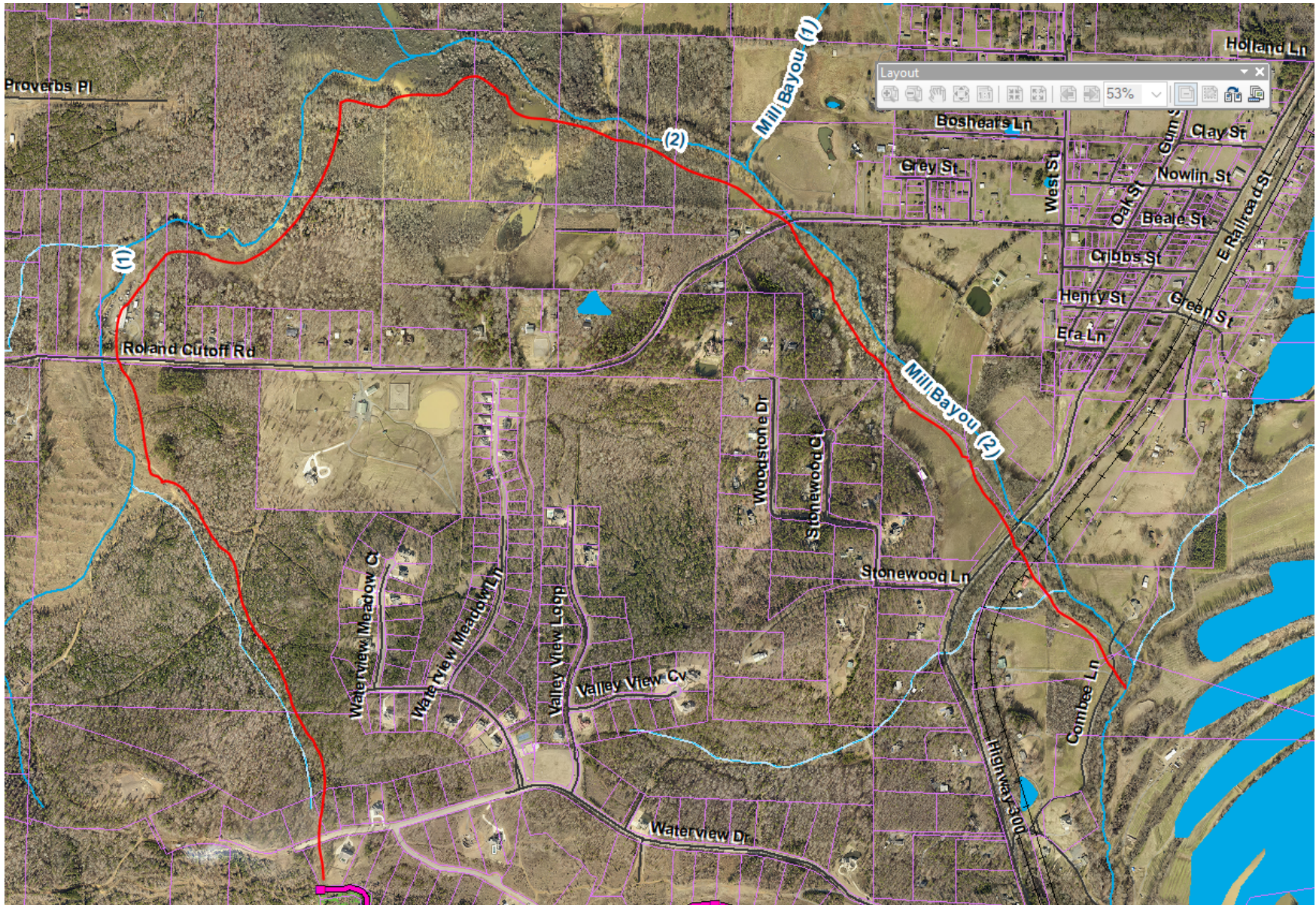
If you have any questions, feel free to contact Jessica Cogburn of my staff at jessica.cogburn@arkansas.gov or (501) 324-9357.

Sincerely,

for
Scott Kaufman
Director, AHPP

cc: Secretary Stacy Hurst, State Historic Preservation Officer
Dr. Melissa Zabecki, Arkansas Archeological Survey

ATTACHMENT D

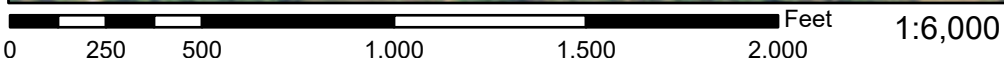


ATTACHMENT E

National Flood Hazard Layer FIRMMette



92°31'44"W 34°54'22"N



Basemap: USGS National Map: Orthoimagery: Data refreshed October, 2020

Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

- | | |
|---|---|
| <p>SPECIAL FLOOD HAZARD AREAS</p> | <ul style="list-style-type: none"> Without Base Flood Elevation (BFE)
<i>Zone A, V, A99</i> With BFE or Depth <i>Zone AE, AO, AH, VE, AR</i> Regulatory Floodway |
| <p>OTHER AREAS OF FLOOD HAZARD</p> | <ul style="list-style-type: none"> 0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile <i>Zone X</i> Future Conditions 1% Annual Chance Flood Hazard <i>Zone X</i> Area with Reduced Flood Risk due to Levee. See Notes. <i>Zone X</i> Area with Flood Risk due to Levee <i>Zone D</i> |
| <p>OTHER AREAS</p> | <ul style="list-style-type: none"> NO SCREEN Area of Minimal Flood Hazard <i>Zone X</i> Effective LOMRs Area of Undetermined Flood Hazard <i>Zone D</i> |
| <p>GENERAL STRUCTURES</p> | <ul style="list-style-type: none"> Channel, Culvert, or Storm Sewer Levee, Dike, or Floodwall |
| <p>OTHER FEATURES</p> | <ul style="list-style-type: none"> B 20.2 Cross Sections with 1% Annual Chance Water Surface Elevation 17.5 Coastal Transect Base Flood Elevation Line (BFE) Limit of Study Jurisdiction Boundary Coastal Transect Baseline Profile Baseline Hydrographic Feature |
| <p>MAP PANELS</p> | <ul style="list-style-type: none"> Digital Data Available No Digital Data Available Unmapped |



The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **11/2/2021 at 4:46 PM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.

ATTACHMENT F



Pinnacle Mountain Community Coalition

**P.O. Box 73
Roland AR 72135
(310)704-6941**

Ms. Becky Keogh
DEQ, Director
E&E Cabinet Secretary
5301 Northshore Drive
North Little Rock, AR 72118-5317

October 29th, 2021

Dear Ms. Keogh,

Definition of a bayou:

1. A marshy arm, inlet or outlet of a lake, river, etc., usually sluggish or stagnant.
2. Any various other often boggy and slow-moving or still bodies of water

Pinnacle Mountain Community Coalition is comprised of concerned citizens living in the Pinnacle Mountain area including Roland, Little Italy, Wye Mountain, and other historic communities.

We seek to protect and preserve the well-being and health of northwest Pulaski County. Our nonprofit was created because of the need to protect Mill Bayou and petition against dense urban style developments in our community.

Paradise Valley Development will consist of 76 tract homes on 20 acres, with an above ground wastewater treatment plant. This facility will discharge thousands of gallons of treated wastewater, containing suspended solids, fecal coliform bacteria, nutrients such as phosphorus, and ammonia into Mill Bayou every day. An estimated 5,548,000 gallons of treated waste yearly, storm water run-off

(containing pesticides and herbicides) will funnel into the Bayou too, resulting in a discharge that will exceed the natural flow of Mill Bayou. These nutrients choke the waterways with algae, deprive the water of oxygen and kill fish. During certain parts of the year, it will be more of a sewer conduit than a beautiful place for local people and visitors to hunt, fish, birdwatch and enjoy the wildlife that live there. With issues of flooding and stagnation in Mill Bayou there is concern that the effluent will create unhealthy conditions from harmful algae blooms and vapors.

The Paradise Valley wastewater treatment facility could fail to operate properly due to flooding, because of its proximity to Mill Bayou. Many of our members live near this bayou and have experienced flooding for quite a few years. The added thousands of gallons of water daily will impact these homeowners significantly. We are very concerned about our drinking water. When Mill Bayou floods, it runs very close to the well that supplies drinking water to our community. An employee from Maumelle Water Corporation attended one of our meetings and stated concerns about the infiltration of effluent from the WWTP into Mill Bayou, which could get into the aquifer and contaminate our drinking water.

PMCC is not opposed to development. We are not in favor of high density, leapfrog developments that rely on prepackaged wastewater treatment plants. These developments lack clear plans and requirements for the perpetual maintenance and operation of these facilities, leaving the community to handle unwanted problems.

They smell bad, break down as they age and are a plague to communities having to deal with them.

Our rural community is characterized by low density development. We do not have the infrastructure to support an urban style high density development, with hundreds of homes proposed in future phases. We do not have any grocery stores, hospitals, schools, library's, gas stations, jobs, mass transit or streetlights. Our fire department is mostly volunteer, our police force is limited. Highway 300, our main artery, is a two-lane highway that cannot sustain the added traffic. Increased traffic will have an adverse effect on residents commuting to and from work and recreational activities, creating congestion and unsafe driving conditions, i.e., passing on narrow highways which are inadequate for high density neighborhoods resulting in more accidents.

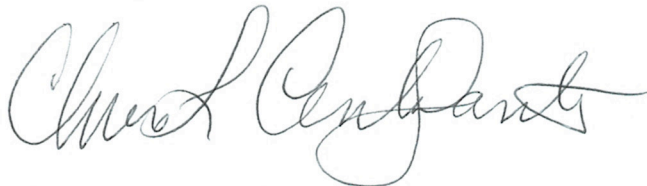
Our community is home to families, small farms and visitors that value

recreational opportunities (biking, hiking, fishing, hunting), open spaces, and natural areas like Mill Bayou.

This project has been flawed from the very beginning with code violations from the Pulaski County Planning Board, incomplete plans, changes in the name of the development from Saddle Ranch to Paradise Valley, incomplete Wastewater treatment plans, completely changing the WWTP plans, sending the wrong plans to ADH, Permit approvals on incomplete submissions and the list goes on. The facts show that the preliminary plat should never have been approved.

In conclusion we respectfully request that the public comment period must be reopened. Paradise Valley should reapply for a new preliminary plat permit. In doing so, every department involved will receive the same set of plans.

Sincerely,

A handwritten signature in black ink, appearing to read 'Christina Centofante', written in a cursive style.

Christina Centofante
President PMCC
(310)704-6941
PMCCArkansas@gmail.com

2900 N. Grant St.
Little Rock, AR 72207
September 20, 2021

To the Pulaski County Planning Board:

On behalf of Audubon Society of Central Arkansas (ASCA) and our 700 members, we are writing to express our concern over the Paradise Valley Development. ASCA is a chapter of the National Audubon Society, a nonprofit conservation organization dedicated to protecting birds and their habitats. ASCA has long been engaged in protecting water quality in Central Arkansas for the benefit of birds and people.

Rural Pulaski County is no place for a high-density, single-family residential housing development. The northwestern section has some of the county's last remaining non-industrial forest blocks. Forest nesting birds, such as Eastern Whip-poor-wills and Chuck-will's-widows, require large blocks of forest for successful breeding and population maintenance; these species are already losing ground on the western outskirts of Little Rock with each parcel of land cleared for development. They require refuge if we are to preserve their presence in Pulaski County. Each new development may not seem like it does much harm, but they add up to death by a thousand cuts; habitat loss is one of the biggest drivers of the loss of 3 billion birds on this continent since 1970 (<https://www.3billionbirds.org>). Pulaski County needs an open space plan like the one adopted in Northwest Arkansas (<https://www.nwarpc.org/environment/nwa-open-space-plan>) and in other communities around the country. The additive effect of each proposed development should be considered in a landscape context, with a goal of maintaining the quantity and distribution of natural areas needed to maintain wildlife habitat, ecosystem services, and quality outdoor recreational opportunities, as well as an overall high quality of life for residents as the county continues to grow.

Developments like Paradise Valley going up around the county and the country are largely the same. What was once ecologically productive forest or field is transformed into mostly impermeable surfaces, a monoculture of turf grass, maybe a few small trees, and the nearly universal planting of non-native flowering shrubs and other plant species. This landscape is neat, simple to maintain, and lifeless from an ecological perspective. It is not designed to share our space with other living things such as insects, invertebrates, amphibians, reptiles, other mammals, or birds. Lawns are fairly sterile, extremely water thirsty, sprayed with fertilizers and pesticides, and provide little to no ecological value. For a bird in search of food or shelter, options are pretty limited. Such sterile environments are not healthy for humans either.

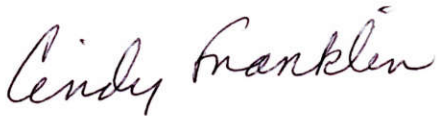
To survive, native birds need native plants and the insects that have co-evolved with them. Most landscaping plants used in new developments are exotic species that originated in countries and continents. Many are prized for qualities that make them poor food sources for native birds—like having leaves that are unpalatable to native insects and caterpillars. With 96 percent of all terrestrial bird species in North America feeding insects to their young (it takes upwards of 9,000 caterpillars to raise one clutch of chickadees or about 1,000 caterpillars per nestling), planting insect-proof exotic plants is like serving up plastic food. No insects? No birds.

A lesson should be learned from the lawsuit, settlement, and concrete ditch that had to be built between Waterview Estates and Lake Maumelle to protect the lake's exceptional water quality. These new proposed subdivisions will pollute local waterbodies.

Our drinking water doesn't need to be at risk to have concerns about water pollution. Chemical-laden stormwater from Paradise Valley's lawns will join effluent from the development's water treatment plant as it runs off into Mill Bayou, then the Arkansas River, Mississippi River, and Gulf of Mexico. What happens in Pulaski County will have far-reaching effects downstream.

ASCA supports the Pinnacle Area for Responsible Development, local residents, and all who have signed the petition opposing the Paradise Valley 76 tract home development on the rural Roland Cutoff Road for their stated reasons.

Sincerely,

A handwritten signature in cursive script that reads "Cindy Franklin". The signature is written in dark ink and is positioned above the typed name and title.

Cindy Franklin
President

As chapter chair of the Central Arkansas Group of the Arkansas Sierra Club, we write to express concern over the Paradise Valley Development. The Central Arkansas Group of the Arkansas Sierra Club has over 1500 members. Our mission is to explore, enjoy and protect the planet; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural human environment and to use all lawful means to carry out those objectives. The Central Arkansas Group has been active in protecting water quality in central Arkansas and protecting forest lands in Western Pulaski County.

Several of our members have adopted portions of the Ouachita Trail, which will be affected by this development. They provide maintenance for those sections of the trail. The proposed Paradise Valley Development will have a devastating impact on the quality of the trail and the hiking experience for those who use it. This appears to be phase one of a planned extensive development in one of the only remaining forest blocks on the North part of Lake Maumelle. The Ouachita trail provides a wilderness type hiking experience. This development will disrupt the solitude and beauty of the portion of the trail passing below the development. This development will affect the birds and wildlife hikers are fortunate to encounter on hikes along the trail.

We are also concerned about the environmental impact of a dense single-family development that will use a package wastewater treatment facility. We understand the developer will turn over maintenance of the package wastewater treatment facility to a Property Owners Association. The developer will have no responsibility to maintain the wastewater treatment facility or to modify it as needed. Property Owner Associations have a poor track record of maintaining package wastewater treatment facilities. In a dense single family development, these facilities have known disadvantages. These plants typically do not achieve denitrification or phosphorus removal without additional unit processes. Flexibility at these plants is limited in adapting to changing effluent requirements resulting from regulatory changes or changes in the property development. Since these plants require a longer aeration period, they require more energy. It is hard to adjust these plants to the cycle times for a dense single family community. Sludge must be disposed frequently. These plants will require a ditch for discharge which tends to produce odors if not operated correctly. Biological treatment is unable to treat highly toxic waste streams. These are only a few problems with package treatment plant.

In addition to the problems at the plant site, effluent from the development's water treatment plant will add pollution as it runs off into Mill Bayou, then the Arkansas River, Mississippi River, and Gulf of Mexico. This pollution will be compounded by the surface run off from the lawns and streets of this development. Herbicides and pesticides have no environmental value in a forest setting. No good can come from adding pollution to this area and the streams around it.

The Central Arkansas Group of the Arkansas Sierra Club supports the Pinnacle Area for Responsible Development, local residents, and all who have signed the petition opposing the Paradise Valley 76 tract home development.

Sincerely,

George Wise