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THE CITY OF FAYETTEVILLE, ARKANSAS

UTILITIES DEPARTMENT

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December 17, 2009

Rufus J. Torrence, Water Division Engineer
Arkansas Department of Environmental Quality
5301 North Shore Drive
North Little Rock, AR 72118-5317

RE: City of Fayetteville (AFIN 72-00102 NPDES #AR0020010) Pretreatment Program Audit/Municipal Pollution Prevention (P2) Assessment

Dear Mr. Torrence,

Please consider our responses below to your findings, recommendations, and required program modifications from the October 2009 audit/assessment.

B) SUMMARY OF FINDINGS WITH REQUIRED ACTIONS

1) Under 40 CFR 403.5(c) "Each POTW with an approved pretreatment program shall continue to develop [local] limits as necessary..." Under 40 CFR 122.44(j)(2)(ii), the City must update or assess local limits at least every permit cycle.

The City's last "official" assessment of local limits occurred in 1998 when the City modified the program to include specific local limits.

Response: The local limits have been evaluated on a monthly basis using a spreadsheet that was developed for the Industrial Pretreatment Program's quality control purposes. The local limits are and have been protective of the receiving stream, POTW, and biosolids. A new Technically Based Local Limits study was not done immediately after permit renewal because of the impending flow split that occurred in mid 2008 when the new West Side plant came online. We have completed sampling (since split flow) for Technically Based Local Limits and plan to complete a Technically Based Local Limits study in 2010.

C) RECOMMENDED POTW ACTIONS FOR IMPROVED IMPLEMENTATION OF THE PRETREATMENT AND POLLUTION PREVENTION PROGRAMS

1) The City should include a fact sheet with every permit. The fact sheet should be an integral part of the permit and the entire permit should be given to the permittee.

Response: Permits issued in 2010 and thereafter will include the fact sheet.

2) The City should verify that 40 CFR Part 464 is not applicable to Superior Industries or Elkhart. During the file review in November 2006, the previous auditor indicated that no wastewater was generated by the Aluminum casting operations [40 CFR Part 464 Subpart A]. However, during the October 21, 2009 site visit, this auditor confirmed that Superior had a Solution Heat Treatment operation (which is normally followed by a

"water" quench) and that Elkhart has a copper casting operation [40 CFR Part 464 Subpart B]. The City should confirm that no wastewater from any 40 CFR Part 464 operation enters, can enter or will enter the POTW collection system from either of these facilities.

Response: We will verify that 40 CFR Part 464 does not apply to Superior Industries or Elkhart by June 2010 and document the results in their files.

3) *The City should add an additional column to the Enforcement Response Plan chart to show which official is responsible for each type of enforcement action.*

Response: The City will consider this recommendation when modifying the approved program in 2010.

4) *The City should not issue permits with both local limits and categorical pretreatment standards for the same parameter except as noted below. The City should compare the two requirements and list only the more stringent requirement in the permit. Based on the information in Superior's permit in Table I-1 (see attachment B-6/26), the Daily Maximum limit for Zinc in the permit should be only 0.45 mg/l based on an allowable 0.64 lbs/day in the discharge at an average flow rate of 0.17 mgd. The City should not show either the Daily Maximum (2.27 mg/l) or the Monthly Average (1.29 mg/l) in Superior's permit for this case; only the local limit for zinc should be shown the table. Refer to attachment J-1/1 for more details on EPA guidance. Note in the Example Fact Sheet that some parameters are controlled by a local limit while others are controlled by categorical standards. No parameter has both a local limit and a categorical limit unless the local limit is not as stringent as the "Monthly Limit" (this case is applicable to Nickel in the Example Fact Sheet).*

Response: Our current permitting strategy has been effective in controlling the headworks loadings since the development of the Technically Based Local Limits in 1998. The goal of having two sets of limitations was to control the contribution from the industrial loadings without causing violation of the federal standards in concentration, or causing unnecessary hardship on the industries. The strategy has helped us significantly reduce potential plant upsets, industrial violations, and created a collaborative working relationship between the industries and the City for many years. However, serious consideration will be given to ensure that we can satisfy the State's recommendation without jeopardizing the goals of our permitting strategy.

5) *"Recommend including pollution prevention (P2) questions in future industry/business surveys as well as in current SIU permit applications (Gilliam Audit Report 2006)."*

Response: Surveys will be updated to include P2 questions. Industrial P2 strategies implemented are discussed with industrial representatives during annual compliance inspections.

Item 6 was excluded from the ADEQ Audit.

7) *"Recommend all metal finishers under CFR 433 periodically review their existing toxic organic management plans (TOMPs), where applicable, and update as necessary. The City should also have correspondence in that IU's file indicating the TOMP has been reviewed and approved (Gilliam Audit Report 2006)."*

Response: The TOMP is reviewed and discussed each year during annual compliance inspections and updates are requested where applicable. The permit specifies whether the permittee has an approved TOMP.

8) *The City should consider not showing numerical limits in the ordinance. Referring to attachment K-1/2, the City has listed numerical limits in the ordinance/code. The City should consider revising the language in the ordinance to show the following:*

Local Limits

To protect against pass through and interference, no Industrial User may discharge or cause to be discharged into the POTW any wastewater pollutant concentration exceeding the Technically Based Local Limits (TBLLs) developed from time to time by the Utilities Director of City of _____ Utilities as required by Part III in City of _____ NPDES permits No. AR00 _____, authorized by 40 CFR 403.5 (c) and approved by the Approval Authority. TBLLs based on calculated Maximum Allowable Industrial Loadings are located in the City's Pretreatment Program, Section _____. At the discretion of the Utilities Director, TBLLs may be imposed and shall apply at the "monitoring point" described in the individual industrial wastewater discharge permits. All concentration limits for metals shall be in terms of "total" metals unless otherwise indicated. At the discretion of the Utilities Director, mass limitations may be imposed in addition to or in place of concentration based TBLLs. The Utilities Director may also develop BMPs in individual wastewater discharge permits, to implement specific pollutant limitations. Such BMPs shall be considered Local Limits and Pretreatment Standards. When new Local Limits are implemented or revised, the Utilities Director will provide individual notice to parties who have requested such notice and an opportunity to respond, as set forth by 40 CFR 403.5 (c) (3). This requirement of notice also applies when Local Limits are set on a case-by-case basis.

Response: The City plans to draft Pretreatment Program modifications in 2010 for submission to ADEQ to include required applicable Streamlining Rule Changes, updated Technically Based Local Limits, and other changes deemed appropriate. We plan to remove the numerical local limits and revise ordinance language using the suggested language that you've provided.

9) *"Recommend including P2 audits as an enforcement option in the current Program's Enforcement Response Guide (Gilliam Audit Report 2006)".*

Response: The City will consider this recommendation when modifying the approved program in 2010.

10) *"Recommend including the general and specific prohibitions in 40 CFR 403.5(a)(1) & (b) in all SIUs' permits (Gilliam Audit Report 2006)".*

Response: SIU permits state, "In compliance with the provisions and conditions of the Discharge and Pretreatment Regulations in Chapter 51 of the Fayetteville Code, ... is authorized to discharge industrial wastewater..." Chapter 51 contains the general and specific prohibitions in 40 CFR 403.5(a)(1) & (b). When permits are issued, Permittees receive a 3-ring binder containing their permit, 40 CFR 401 and 403 (including 403.5), applicable categorical regulations, the Discharge and Pretreatment Regulations section of the Fayetteville Code of Ordinances, and a copy of the SOP on Enforcement. The intent is to keep the permit concise and ensure Permittee's specific requirements are clear. The City wishes to maintain this permitting format, which the industries have been familiar with for many years.

11) *The City should consider adding Molybdenum to the list of Table III parameters and also test for Molybdenum on a quarterly basis at the Noland plant and semi-annually at the West Side plant.*

Response: We have already included molybdenum in periodic testing and will continue to do so.

12) In reference to the language in each permit (Part III sec A.18; see attachment B-16/26), the City should modify the title to show **"Limitations on Permit Transfer"** and include this topic sentence as the first sentence in the section:

"The permit is nontransferable to any person except after notice to the Control Authority".

See the enclosed "Pretreatment Audit Checklist" Section III paragraph B.3 and footnote number three (3) for more details.

Response: The City will consider this recommendation when modifying the approved program in 2010.

13) The City should not list any limits in the SIU permits which are not local limits or categorical limits. Referring to attachment F-1/1, the City has listed TSS limits in Pinnacle Foods' permit. The City may continue to show the TSS limits if the City clearly adds a disclaimer. The City may add a footnote to declare that the TSS limits are not national pretreatment standards or requirements and, hence, are not subject to the requirements in Code 51.

Response: Fayetteville City Code 51.078, *Wastewater Discharge Permit Issuance Process*, section (2) states, *Wastewater discharge permits may contain, but need not be limited to, the following conditions:*, and includes part (g), *Other conditions as deemed appropriate by the control authority to ensure compliance with this article, and federal and state laws, rules, and regulations.* We feel that this language in the ordinance allows limiting TSS in industrial permits.

14) The Marshalltown Toxic Organic Management Plan (TOMP) should have more details. Referring to attachment G-11/23, the plan should list each toxic organic of concern. Referring to attachment G-13/23, the "Method of Disposal" should list the toxic organic in each chemical. Referring to attachment G-18/23, under "Employee Training" paragraph number 7 lists training on proper disposal; however, employees should also be educated on the content of the chemicals to avoid inadvertently contaminating the wastewater discharged to the sewer.

Response: We will work with Marshalltown Tools to improve their TOMP.

15) Referring to attachment C-9/11, the City change the title of section L in the inspection report form to show **"Accidental Spill and Slug Discharge Control"**. The City should continue to evaluate each SIU's slug control plan or the necessity to develop a plan.

Response: We will change the language in the inspection form. The Superior inspection form is the only one still containing old language. All other were updated in the past to include spill and slug control. The evaluation is conducted each year for each SIU during annual compliance inspections.

16) The City appears to have modified Elkhart's permit to "increase" the allowable loading of zinc to the POTW. Referring to attachment H-2/4, the zinc limit is 0.48 lb/day. Referring to attachment H-4/4, the "local limit/allocation" for zinc for Elkhart was only 0.023 lb/day. The City should provide justification for increasing Elkhart's allocation for zinc. The City should provide information in the fact sheet to show the MAIL (Maximum Allowable Industrial Loading) and to show that the increase in Elkhart's allowable loading of zinc along with all other allocations for zinc did not exceed the MAIL for zinc. Note that the City must not increase Elkhart's allowable loading for zinc over the categorical limit of 0.654 lb/day.

Response: The City will review Elkhart's permit and fact sheet and provide more detail in the fact sheet regarding the zinc limits.

D) REQUIRED PROGRAM MODIFICATIONS TO THE APPROVED PRETREATMENT PROGRAM NECESSARY TO BRING THE PROGRAM INTO COMPLIANCE WITH THE LETTER OR INTENT OF THE CURRENT REGULATORY REQUIREMENTS

The City's Pretreatment Program must be modified to be current with the newly revised 40 CFR 403. The City must comply with the most recent changes to 40 CFR 403 (commonly referred to as the "Streamlining Rule Changes" promulgated on October 14, 2005). The City must review the existing approved program and make all necessary modifications to comply. Some of the streamlining changes are less stringent than the previous pretreatment regulations and the City may at its option elect to include these changes in the program modification. However, thirteen (13) elements are more stringent than the previous pretreatment regulations and the City must ensure that the approved program contains all applicable more stringent streamlining changes. The City should note that some of the elements may not be applicable to the City's approved program.

Response: The City plans to draft Pretreatment Program modifications in 2010 for submission to ADEQ to include required applicable Streamlining Rule Changes, updated Technically Based Local Limits, and other changes deemed appropriate.

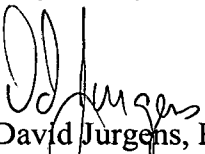
We appreciate your thorough assessment and recommendations for implementation of the industrial pretreatment program.

Please do not hesitate contact Denise Georgiou at 479-443-3292 or Denise.Georgiou@CH2M.com if you have any questions.

*I, **David Jurgens**, certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

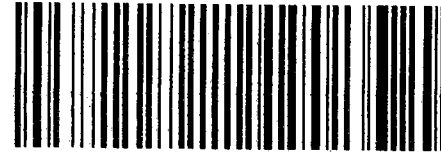
Sincerely,

City of Fayetteville



David Jurgens, P.E.
Utilities Director

CERTIFIED MAIL™



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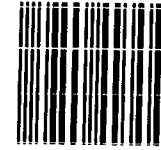
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