

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

SUBJECT – Regulation No. 2
Water Quality Standards
Third-Party Rulemaking
CITY OF HUNTSVILLE

DOCKET NO. 13-006-R

MINUTE ORDER NO. 17- 19

PAGE 1 OF 2

1. On June 13, 2013, the City of Huntsville (“Huntsville”) filed its Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 (“Petition”). On July 12, 2013, Huntsville filed its Amendment to Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2. On July 23, 2013, Huntsville filed its Second Amendment to Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 (“Second Amended Petition”).

2. On July 26, 2013, the Commission granted Huntsville’s Second Amended Petition by Minute Order No. 13-23.

3. On August 1, 2013, Huntsville filed a corrected Second Amendment to Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 (“Corrected Second Amended Petition”). The Corrected Second Amended Petition sought modification of the chloride, sulfate, and total dissolved solids (TDS) water quality criteria for specified segments of Town Branch, Holman Creek, and War Eagle Creek (“2013 Proposed Criteria”) and the removal of the Domestic Water Supply designated use for specified segments of Town Branch and Holman Creek. On October 24, 2013, Huntsville filed its “Supplemental Report: Feasibility of Treatment Alternatives for Total Dissolved Solids and Chloride.”

4. A public hearing was held on October 28, 2013, in Huntsville, and the public comment period was extended to December 2, 2013. Written comments were submitted by nine individuals or entities during the public comment period. The Arkansas Department of Environmental Quality (ADEQ) stated in its comments that, “The Department does not recommend approval of proposed site specific minerals criteria changes for the Town Branch, Holman Creek, and War Eagle Creek as currently presented.” The United States Environmental Protection Agency provided comments to ADEQ by letter dated May 19, 2016.

5. Nothing further was added to this Docket No. 13-006-R until the summer of 2017, when a June 29, 2017, letter from the Commission’s Administrative Law Judge to counsel for Huntsville requested a brief status update to the Commission at its August 2017 meeting. Huntsville subsequently filed its Responsive Summary – City of Huntsville (“Huntsville’s Responsive Summary”) on August 15, 2017. Huntsville’s Responsive Summary includes four Exhibits. Exhibit D is Huntsville’s “Section 2.306 Site Specific Water Quality Study: Town Branch, Holman Creek, and War Eagle Creek” dated June 2017 (“2017 Report”). Huntsville’s Responsive Summary, not including the Exhibits, is twenty-seven pages long and the 2017 Report is over three hundred pages long.

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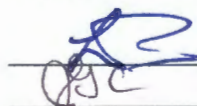
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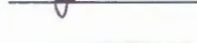
6. Huntsville’s Responsive Summary at numbered paragraph 4 includes revisions to its 2013 Proposed Criteria for specified segments of Town Branch, Holman Creek, and War Eagle Creek and it revises the segment of War Eagle Creek to which the new proposed criteria would apply. In general, the new proposed criteria for Town Branch and Holman Creek are markedly higher than the 2013 Proposed Criteria and the new proposed criteria for War Eagle Creek are markedly lower than the 2013 Proposed Criteria. Huntsville’s Responsive Summary at numbered paragraph 4 also continues the 2013 proposal to remove the Domestic Water Supply designated use for specified reaches of Town Branch and Holman Creek.

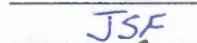
7. Given the significant changes from the 2013 Proposed Criteria that Huntsville now proposes and the time that has elapsed since the 2013 public comment period, it is appropriate that the third-party rulemaking process be re-initiated by the filing of revised and updated documents that are listed in Regulation No. 8.808(A)(1) through (6). The revised and updated documents will include what logically will be called Huntsville’s Third Amendment to Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2. In addition, a public comment period and public hearing shall be held on the revised and updated documents.


8. After Huntsville has filed the updated and revised documents listed in Regulation No. 8.808(A)(1) through (6), Huntsville, in consultation with ADEQ, shall prepare and pay for publication of public notice of Huntsville’s Third Amendment to Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2. The public notice shall provide for a public hearing to be held at least thirty (30) calendar days after the date of the public notice and for a written public comment period that begins on the date of the public notice and extends at least twenty (20) calendar days after the date of the public hearing.


COMMISSIONERS:




L. Bengal



J. Chamberlin


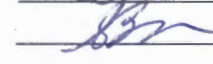
J. Crow


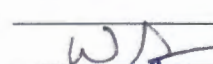
J. Fox


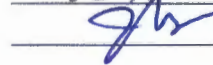
C. Gardner



B. Holland




D. Melton


S. Moss, Jr.


R. Reynolds **RECUSED**


W. Stites


G. Wheeler


B. White


Miles Goggans, Chair
SUBMITTED BY: Colene Gaston DATE PASSED: August 25, 2017