

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Magnolia -- Big Creek WWTP
P.O. Box 666
Magnolia, AR 71754-0666

LIS No. 16- 097
Permit No. AR0043613
AFIN 14-00059

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (Order) is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. § 1311 *et seq.*, and the regulations issued thereunder by Arkansas Pollution Control and Ecology Commission (APC&EC).

The issues herein having been settled by the agreement of the City of Magnolia (Respondent) and the Arkansas Department of Environmental Quality (ADEQ or Department), it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered.

FINDINGS OF FACT

1. Respondent operates a municipal wastewater treatment plant located on Columbia CR 300/Rawhide Road, approximately ¼ mile south of Hwy. 371 in Columbia County, Arkansas known as the Big Creek WWTP (Facility).
2. The facility is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).
3. Respondent discharges treated wastewater to Big Creek, then to Dorcheat Bayou, then to the Red River in Segment 1A of the Red River Basin.

4. Pursuant to the federal Clean Water Act, 33 U.S.C. §1311(a) *et seq.*, the NPDES program prohibits the discharge of pollutants except as in compliance with a permit issued under the NPDES program in accord with 33 U.S.C. §1342(a).
5. ADEQ is authorized under the Arkansas Water and Air Pollution Control Act to issue NPDES permits in the state of Arkansas and to initiate an enforcement action for any violation of an NPDES permit.
6. NPDES Permit Number AR0043613 (Permit) was issued to Respondent on September 30, 2005. The Permit was renewed on January 1, 2011 with an expiration date of December 31, 2015.
7. The facility's application for a new Permit was received on June 29, 2015 and deemed administratively complete on July 2, 2015.
8. Ark. Code Ann. § 8-4-217(a)(2),(3) provide:
 - (a) It shall be unlawful for any person to:
 - ...
 - (2) Place or cause to be placed any sewage, industrial waste, or other wastes in a location where it is likely to cause pollution of any waters of this state;
 - (3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the [APC&EC] under this chapter or of a Permit issued under this chapter by the [ADEQ].
9. Ark. Code Ann. § 8-4-103 authorizes ADEQ to assess an administrative civil penalty not to exceed ten thousand dollars (\$10,000) per violation for any violation of any provision of the Act and any regulation or permit issued pursuant to the Act.
10. Pursuant to Ark. Code Ann. § 8-4-103(c)(1)(B), "Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessment."

11. Ark. Code Ann. § 8-4-103(f)(3)(A) permits the Director of ADEQ to authorize in-kind services or cash contributions as partial mitigation of cash penalties for use in projects or programs designed to advance environmental interests. These in-kind services or cash contributions are known as Supplemental Environmental Projects (SEP) s.

12. Respondent has a history of permit effluent violations reaching as far back as 2005. Due to continuation of effluent violations, a letter from ADEQ dated December 4, 2014, requested a report or plan detailing the corrective actions Respondent would take to achieve compliance with the Permit.

13. On January 6, 2015, Respondent submitted a Corrective Action Plan (CAP) which outlined the steps Respondent has taken in order to prevent continued effluent violations.

14. After the CAP was submitted, Respondent reported thirty-two (32) additional effluent violations from January 2015 through October 2015.

15. ADEQ conducted a review of certified DMRs submitted by the Respondent in accordance with the Permit for the period of November 1, 2005 through July 31, 2016. The review revealed one hundred and eleven (111) violations of the permitted effluent discharge limits detailed in Part I Section A of the Permit. The DMR listed:

- a. Twenty-two (22) violations of the effluent limits for Carbonaceous Biochemical Oxygen Demand (CBOD5);
- b. Six (6) violations of the effluent limits for Total Residual Chlorine (TRC);
- c. Thirty-two (32) violations of the effluent limits for Fecal Coliform Bacteria (FCB);

- d. Thirty-four (34) violations of the effluent limits for Ammonia Nitrogen (NH₃-N);
- e. Five (5) violations of the effluent limits for pH; and,
- f. Twelve (12) violations of the effluent limits for Total Suspended Solids (TSS).

16. Each of the one hundred and eleven (111) discharge limitation violations listed above constitutes a separate permit violation and therefore constitutes one hundred and eleven (111) separate violations of Ark. Code Ann. § 8-4-217(a)(3).

17. During the period from January 10, 2012 through September 14, 2016, Respondent reported twenty-four (24) Sanitary Sewer Overflows (SSOs) totaling more than 5,000 gallons. SSOs are unpermitted discharges and violate Ark. Code Ann. § 8-4-217(a)(2) and Ark. Code Ann. § 8-4-217(a)(3).

18. On December 15, 2015, ADEQ proposed a draft Consent Administrative Order to Respondent to resolve the violations cited herein.

19. On March 17, 2016, Respondent submitted a response to the draft CAO with a proposed SEP. Respondent recently purchased a sewer smoke machine and pipe camera system to evaluate their sanitary sewer system. The Respondent's SEP proposal includes offering this equipment and the Respondent's manpower to neighboring Columbia County cities that have waste water collection systems to assist with line cleaning and stoppages. See Exhibit A attached and incorporated herein.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent shall immediately comply and stay in compliance with all permitted effluent limits.
2. If unable to immediately comply and stay in compliance with all permitted effluent limits, Respondent shall, within thirty (30) calendar days of the effective date of this Order, submit to ADEQ, for review and approval a comprehensive CAP developed by a Professional Engineer (PE) registered in the state of Arkansas.
3. The CAP shall, at minimum, include a reasonable milestone schedule with a date for final compliance no later than December 31, 2016, and the CAP shall detail the methods and best available technologies that will be used to correct the violations listed in Findings of Fact paragraph 15 and prevent future violations.
4. Upon review and approval of the CAP by ADEQ, Respondent shall comply with the terms and milestone schedule contained in the CAP.
5. The approved CAP, milestone schedule, and final compliance date of December 31, 2016 shall be fully enforceable as the terms of this Order.
6. Within six (6) months of the effective date of this Order, with the overall goal of eliminating SSOs, Respondent shall develop and submit to ADEQ for review and approval a Sewer System Evaluation Study (SSES) that is certified by a PE licensed in the state of Arkansas for its sanitary sewer collection system.
 - a. The SSES should, at minimum, have the following elements:

- i. Perform smoke testing in all areas of the collection system, beginning with highest priority areas;
- ii. Perform televising of lines in areas deemed necessary based on smoke testing in order to locate leaks and determine method of repair;
- iii. Develop a plan to address deficiencies through rehabilitation, repair, or replacement;
- iv. Develop a manhole inspection program, beginning in the highest priority area; and
- v. Recommend a method of repair and develop a cost estimate for such. Based on the results of the above studies, Respondent will be able to identify areas requiring improvements and to prioritize those improvements. Short-term and long-term improvements will be considered to remedy deficiencies.

b. The SSES shall include an SSO Plan with a milestone schedule that details the steps Respondent shall take to fully and expeditiously implement the corrective action. Upon approval by ADEQ, the SSO Plan and milestone schedule shall be incorporated into this Order by reference and become fully enforceable as the terms of this Order.

7. In compromise and full settlement of the violations specified in the Findings of

Fact, Respondent agrees to pay a reduced civil penalty of Six Thousand Dollars (\$6,000.00). Payment is due within thirty (30) calendar days of the effective date of this Order. Such payment of the penalty shall be made payable to the Arkansas Department of Environmental Quality, and mailed to the attention of:

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

8. Respondent also may choose to fund a SEP in the amount of Three Thousand Dollars (\$3,000.00) as referenced in Paragraph 19 of the Findings of Fact.

9. If Respondent chooses to fund a SEP, Respondent shall agree to pay a reduced civil penalty of Three Thousand Dollars (\$3,000.00) to ADEQ. Payment of this reduced civil penalty is due within thirty (30) calendar days of the effective date of this Order made payable to ADEQ's fiscal division.

10. Completion of the SEP shall be due within six (6) month of the effective date of this Order.

11. Respondent shall then submit to ADEQ documentation confirming the expenditure of Three Thousand Dollars (\$3,000.00) in completion of the SEP.

12. If Respondent fails to fund or pursue the SEP, Respondent shall be obligated to pay this Three Thousand Dollars (\$3,000.00) to ADEQ as a civil penalty payment.

13. If Respondent fails to complete the requirements of the SEP, as provided in the Order and Agreement, the Three Thousand Dollars (\$3,000.00) shall be immediately due and payable to ADEQ.

14. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If Respondent should fail to meet any such requirements or deadlines, Respondent consents and agrees to pay on demand to ADEQ stipulated penalties according to the following schedule:

- a. First day through fourteenth day: \$100.00 per day
- b. Fifteenth day through the thirtieth day: \$500.00 per day
- c. Each day beyond the thirtieth day: \$1000.00 per day

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

15. If any event, including but not limited to an act of nature, occurs which causes or may cause a delay in the achievement of compliance by Respondent with the requirements or deadlines of this Order, Respondent shall notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates specified in this Order. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

16. ADEQ may grant an extension of any provision of this Order, provided Respondent requests such an extension in writing and provided that the delay or anticipated delay has or will be caused by circumstances beyond the control of and without the fault of Respondent. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances

beyond the control of and without the fault of Respondent and the length of the delay attributable to such circumstances shall rest with Respondent. Failure to notify ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

17. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC Regulation No. 8 and shall not be effective until thirty (30) calendar days after public notice is given. ADEQ retains the right to rescind this Order based upon the comments received within the thirty-day public comment period. Notwithstanding the public notice requirements, the corrective actions necessary to achieve compliance shall be taken immediately. The publication of this Order shall occur on or about the 10th or 25th day of the month following the date this Order is executed. As provided by APC&EC Regulation No. 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this Order is granted by the Commission.

18. Nothing in this Order shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed herein. Also, this Order does not exonerate Respondent from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve Respondent of its responsibilities for obtaining any necessary permits.

19. This Order has been reviewed and approved by the City Council of the Respondent in a duly convened meeting with a quorum present. See copy of meeting minutes or resolution attached as Exhibit B.

20. The City Council of the Respondent has authorized the Mayor and City

Clerk/Treasurer to sign this Order on behalf of the Respondent. See Exhibit B.

21. The City Council of the Respondent has authorized the Mayor and City Clerk/Treasurer to expend funds for compliance activities required by this Order including but not limited to the payment of a civil penalty in the amount of Three Thousand Dollars (\$3,000.00) and in-kind services for a SEP in the amount of Three Thousand Dollars (\$3,000.00). See Exhibit B.

SO ORDERED THIS 15th DAY OF December, 2016.

Becky W. Keogh
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Magnolia

BY: Parnell Vann
(Signature)

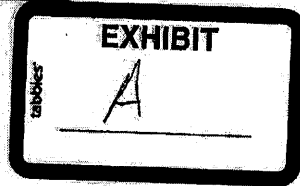
PARNELL VANN
(Typed or printed name)

TITLE: MAYOR
(Responsible Official)

DATE: 9-21-16



118 East Broad Street
Texarkana, AR 71854
PHONE 870.216.1906 • FAX 870.216.1907



March 17, 2016

Ms. Gina Porter
Enforcement Analyst
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

Re: City of Magnolia Compliance Date Submittal
AFIN: 14-00059 NPDES Permit No. AR0043613

Dear Ms. Porter:

With reference to the captioned NPDES Permit No. and subsequent to our meeting on March 2, 2016, we offer the following:

On March 4, 2016, the City of Magnolia Waste Water Department began diverting Water Treatment Plant back wash water and sludge blowdown from the oxidation ditch to the stabilization pond in an effort to completely isolate it from the biological process of the WWTP. This isolation effort will be maintained for a period of 60 days until May 4, 2016. As of March 11, 2016, the mixed liquor and return activated sludge (RAS) appear to be growing well. See attached Scope Log. If, at the end of the 60 day trial period it is concluded that the source of the WWTP disruption and subsequent discharge violations was the WTP back wash and sludge blowdown, the isolation will be made permanent with a dedicated force main directly from the sludge holding basin at the WTP to the WWTP stabilization pond. As you know, tens of thousands of dollars were spent during 2015 in efforts to chemically treat the WTP sludge for compatibility with the WWTP process, with no positive benefit.

The City as purchased a sewer smoke machine and related equipment in the amount of \$6,481 and a pipe camera system in the amount of \$33,318. The City began collection system smoke testing on March 7, 2016. Findings are being documented with digital photographs, locations and completion of the attached line leak report and manhole survey report. To date, the smoke testing has revealed 6" and 4" open service connections, manhole bottom damage and cracked and broken manhole rings and lids. All of these findings have been repaired as they were identified. The final product of the smoke testing and camera investigation results will be compiled into an SSES. We are anticipating 12 months for the data collection. The SSES will be the basis for a 20 year sanitary sewer collection system master plan for work that cannot be repaired by City

ARKANSAS CERTIFICATE OF AUTHORIZATION NUMBER 1681
OKLAHOMA CERTIFICATE OF AUTHORIZATION NUMBER 5503
TEXAS CERTIFICATE OF REGISTRATION NUMBER F-10338

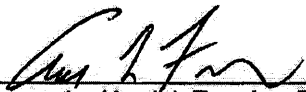
Utility Crews. The improvements will be divided into four (4) Phases to allow as much public funding as possible.

As discussed in our meeting, the City would like to participate in a Supplemental Environmental Project (SEP) in an effort to reduce the current \$10,000 civil penalty. Frequently, the neighboring Columbia County cities with Waste Water collection systems request assistance from Magnolia with line cleaning and stoppages. Magnolia would like to offer smoke testing and/or line camera assistance to these entities at an hourly rate of \$125, or \$1000/day. Magnolia would be available one (1) day per year for each of the four (4) systems for a maximum annual contribution of \$8,000. These amounts would not be charged to the entities for a period not to exceed three (3) years but, would be considered as a SEP to reduce the civil penalty.

We appreciate your consideration of this summary and proposal. If you require additional information, please contact me, Mayor Parnell Vann or Russell Thomas of the Magnolia Waster Water System.

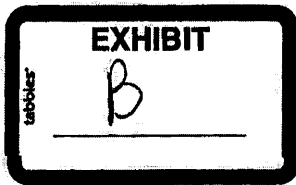
Sincerely,

A. L. FRANKS ENGINEERING, INC.



Anthony L. (Andy) Franks, P.E.
Principal

CC: Mayor Parnell Vann
Russell Thomas, Magnolia Waste Water



CITY COUNCIL MEETING
February 22, 2016

The Magnolia City Council met in regular session on February 22, 2016 in the Council Chambers at 5:00 P.M. The meeting was called to order by Mayor Parnell Vann. The invocation was given by Council member Talley and the Pledge of Allegiance was led by Mayor Vann.

ATTENDANCE

The Clerk called the roll, those answering present were: Crowell, Waller, Souter, Farrar, Russ, Talley, Whitelaw, and Moore. City Attorney Mike Boyd was also present at this meeting.

Mayor Vann welcomed guests and thanked all for being present.

MINUTES

Council member Waller made a motion to approve the January 25, 2016 minutes. His motion was seconded by Council member Farrar. All members voted yes. The minutes were approved.

NEW BUSINESS

The city clerk read the Ordinance regarding drilling water wells in its entirety for its third and final reading. Council member Crowell made a motion to table this matter. His motion was seconded by Council member Whitelaw. All members voted yes. This Ordinance has been tabled.

David Price was on the agenda to speak before the Council. He had called Mayor Vann prior to the meeting and would not be speaking.

Mr. Andy Franks with A L Franks Enginerring outlined guidelines that need to be taken in addressing the consent order from the Department of Environmental Quality regarding the operation of the wastewater plant. The sewer plant had 32 separate violations last year, which could result in a \$10,000 fine for each violation per day. There is already a meeting set with DEQ for March 2, 2016 for further discussions of this consent order. Mr. Franks explained the time frame of completion would be negotiable as long there is a plan in place.

The offer on the consent order would be a \$10,000 penalty with a plan in place to find the cause and alleviate these problems. Magnolia Utilities has already started diverging sludge from the water treatment plant into an equalization pond in a means to see whether this sludge is causing the problem at the wastewater plan. The DEQ supports this plan.

The old pipes have allowed rain water to seep into the sewer collection system. Mr. Franks presented a chart for the last 5 years showing water sales have remained flat during this time while wastewater flow has steadily increased. He recommended the city buy smoke testing equipment and also a remote controlled camera to confirm where the leaks are at an estimated cost of \$65,000. The sewer lines of the entire city will have to be smoke tested and DEQ will expect these leaks to be fixed. Mr. Franks expressed that the State needs to know the city is acting in good faith. Smoke testing will be the first step in finding these leaks and how wide spread these problems exist. The sewer lines have to be tested before the city knows what needs to be fixed and the extent of the costs. He projected it would be millions of dollars.

Council member Whitelaw made a motion to authorize the purchase of the smoke testing equipment and the camera equipment needed to confirm where repairs are necessary. His motion was seconded by Council member Crowell. All members voted yes. Motion carries.

Council member Crowell made a motion to authorize the Mayor to sign and the city to enter into Consent Order. His motion was seconded by Council member Souter. On a roll call vote, the vote was 8 to 0 in favor of signing this order.

Mayor Vann expressed it would take 12 to 14 months to smoke the entire city. Mr. Russell Thomas, Superintendent of Magnolia Waste Water said they would not be able to do it in that time period with current personnel. Mayor Vann said they would most likely be adding 2 additional employees.

Council member Margie Russ had requested to purchase the lot at 902 Harlem. This lot is behind property that she presently owns. She would purchase this lot from the City at a cost of \$1500.00. Council member Waller made the motion that she be allowed to buy this property for \$1500.00. His motion was seconded by Council member Moore. On a roll call vote, the vote was 7 to 0. Motion carries. Council member Russ abstained from voting on this matter.

The city clerk read a resolution regarding a lease agreement between the city and Wagner Property Management LLC. and Shooters Sporting Goods in its entirety. This resolution would allow Wagner Property Management to provide a rent house for the use of a Magnolia Police Department Officer in exchange for Shooter Sporting Goods, LLC being allowed to place an advertisement sign at the City of Magnolia's shooting range.

The house is a duplex which is located at the corner of Dudney & Smith.

Council member Farrar made a motion to approve this resolution. His motion was seconded by Council Crowell. All members voted yes. Resolution #942 was approved.

The resolution regarding property being condemned at 1515 McCray was read in its entirety by the city clerk.

Council member Talley made the motion to approve this resolution. His motion was seconded by Council member Souter. All members voted yes. Resolution #943 was approved.

Council member Farrar made a motion that the 2nd reading of the Ordinance Amending Opening & Closings Times be read by title only. His motion was seconded by Council member Crowell. On a roll call vote, the vote was 8 to 0. This ordinance was read by title only for its second reading by the city clerk. The third and final reading will be read by title only at the next council meeting.

Mayor Vann requested Shawanna Reed be appointed to the MRMC Board. She will replace Randy Reed. Her Bio was included in each packet and she is currently employed at Southern Arkansas University.

Council member Waller made the motion that Shawanna Reed be appointed to the MRMC Board. His motion was seconded by Council member Souter. All members voted yes. Motion carries. Ms. Reed was appointed to the MRMC Board.

There was a consensus among the council members that March 10, 2016 would be the best time for a special called city council meeting. Jason Holsclaw with Stephens Inc. needs the meeting regarding the re-financing of the 2011 water and

sewer bonds.

ANNOUNCEMENTS

The next City Council Meeting will be March 28, 2016.

Steve Crowell is going to pursue getting food trucks to come to Magnolia on certain days. He suggested Monday would be a good time since some of our area restaurants are closed on that day. He knew some of the international students at SAU would welcome more diverse cuisine and stated the college is a life blood for us. He was encouraged by other council members to check into it and see what he could do.

There being no further business or announcements, Council member Souter made a motion to adjourn. This motion was seconded by Council member Farrar. All members voted yes. The meeting was adjourned at 5:51 P.M.

Rand Wilson
City Clerk

Samell Vann
Mayor