

RESOLUTION NO. RS-2016-31

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE CERTAIN CONSENT ADMINISTRATIVE ORDERS WITH ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY IN COMPLIANCE WITH ACA § 8-4-101 ET SEQ; AND AUTHORIZING THE EXPENSE OF FUNDS RELATED THERETO.

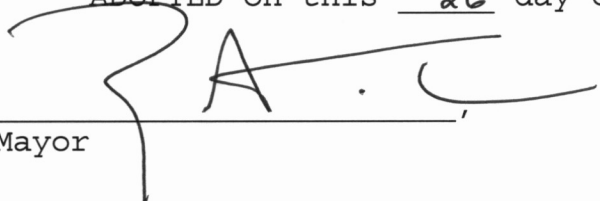
WHEREAS, the City Council of Monticello, Arkansas deems it necessary and proper to enter into a Consent Administrative Order with the Arkansas Department of Environmental Quality as required by ACA § 8-1-101 et seq, and as presented to the legal counsel for review.

NOW THEREFOR BE IT RESOLVED, by the City Council of the Monticello, Arkansas, that the mayor, as a Signatory Agent of the City of Monticello, Arkansas, is hereby authorized to execute the attached Consent Administrative Orders on behalf the City of Monticello, Arkansas; and is also authorized to pay, as a condition of said Consent Administrative Orders, civil penalties in the amount \$11,687.00 the Arkansas Department of Environmental Quality.

(End of Resolution)

ADOPTED on this 26 day of July, 2015.

Mayor



ATTEST:

City Clerk



ADEQ

ARKANSAS
Department of Environmental Quality

July 12, 2016

CERTIFIED NUMBER 91 7199 9991 7036 8212 8603

Honorable Zack Tucker
Mayor, City of Monticello
P.O. Box 505
Monticello, AR 71657

RE: **NPDES Permit Number AR0021822, AFIN 22-00037**
Monticello-West Plant
PROPOSED CONSENT ADMINISTRATIVE ORDER

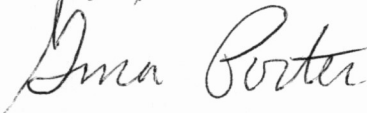
Dear Mayor Tucker:

On December 23, 2015, the Arkansas Department of Environmental Quality – Water Division (ADEQ) issued a proposed Consent Administrative Order (CAO) to the City of Monticello-West Plant with an assessed civil penalty of \$24,100.00. On March 11, 2016, the City of Monticello requested the assessed civil penalty be reduced to \$4,000.00. After careful consideration, ADEQ is willing to accept a reduced penalty offer of \$12,050.00. \$6,025.00 of the civil penalty will be suspended if the Respondent has no further violations for the six (6) months following the effective date of this Order.

Enclosed is a copy of the revised CAO in this matter. If you choose to accept the terms of the CAO, please sign, date, and **return the original, embossed copy** to the address below no later than **August 5, 2016**. Subsequently, the Director of ADEQ will sign the CAO and you will be provided a copy, including information on the public notice process and the effective date of the CAO.

Failure to contact the ADEQ Water Division Enforcement Branch in response to this CAO by **August 5, 2016**, will constitute rejection of the settlement offer and unilateral enforcement action may proceed through a Notice of Violation. Should you wish to discuss this matter further, you may contact me at (501)682-0636, or you may e-mail porterg@adeq.state.ar.us.

Sincerely,



Gina Porter, Enforcement Analyst
Water Division, Enforcement Branch

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Monticello-West Plant
P.O. Box 505
Monticello, AR 71655

LIS No. 16-
Permit No. AR0021822
AFIN 22-00037

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 Monticello (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 waste water treatment plant (facility) located in 1466 Old Warren Road, Monticello, Drew County, Arkansas.
2. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).
3. Respondent discharges treated wastewater to Tenmile Creek, thence to the Saline River, thence to the Ouachita River in Segment 2C of the Ouachita 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 accordance with 33 U.S.C. §1342(a). 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.

5. NPDES Permit Number AR0021822 (Permit) was issued to the Respondent on July 31, 2010. The Permit became effective on August 1, 2010 and expired on July 31, 2015.

6. On March 17, 2015, Respondent submitted a permit renewal application. Respondent submitted additional information on April 21, 2015 and May 3, 2015. The permit application was deemed complete on June 3, 2015.

7. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...

(3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].

8. 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.

9. 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."

10. Part III Section C.2 of the Permit states in part the following:

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to insure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure the accuracy of the measurements are consistent with the accepted capability of that type of device.

accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to insure the accuracy of the measurements are consistent with the accepted capability of that type of device.

11. On March 10, 2015, the Department conducted a routine compliance inspection of the facility. The inspection revealed the following operational and maintenance issues that fail to ensure the accuracy of measurements are consistent with the accepted capabilities of the respective devices:

- a. At the time of the inspection the totalizing flowmeter was not in operation;
and
- b. The staff gauge was broken and could not be read to make a calibration check.

These failures violated Part III Section C.2 of the Permit and therefore Ark. Code Ann. § 8-4-217(a)(3).

12. The Department conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by the Respondent in accordance with the Permit. The review revealed the following violations of the Permit related to the aforementioned DMRs:

- a. From April 1, 2012 through April 30, 2016 Respondent has reported twenty-one (21) violations of the effluent characteristic limitations detailed in the Permit: three (3) violations of Discharge Flow as a percentage of upstream Flow, two (2) violations of pH, six (6) violations of Whole Effluent Toxicity, four (4) violations of Fecal Coliform and six (6) violations of the limit for Total Suspended Solids. These failures violated Part I, Section A of the Permit and therefore Ark. Code Ann. § 8-4-217(a)(3).

- b. From April 1, 2012 through April 30, 2016, Respondent failed to submit twenty seven (27) required DMRs by the 25th day of the month following a completed reporting period. These failures violated Part III, Section C.5 of the Permit and therefore Ark. Code Ann. § 8-4-217(a)(3).
 - c. For the monitoring periods ending on December 31, 2014 and on June 30, 2015, Respondent failed to conduct required monitoring for Whole Effluent Toxicity. For the monitoring period ending on February 28, 2015, Respondent failed to conduct required effluent monitoring for effluent flow as a percentage of upstream flow, Biochemical Oxygen Demand, Total Suspended Solids, Dissolved Oxygen, Fecal Coliform Bacteria, Total Phosphorus, Nitrate +Nitrite Nitrogen and pH. These failures violated Part I, Section A of the Permit and therefore Ark. Code Ann. § 8-4-217(a)(3).
13. Part III, Section D, Item 10 of the Permit requires the Respondent to submit a renewal application at least 180 days prior to the expiration date of the Permit if it wishes to continue discharging. The final date to submit a renewal application for the Permit was January 31, 2015. Respondent was notified by letters dated August 1, 2014 and November 3, 2014 to submit a renewal application at least 180 days prior to the expiration date of the Permit. The renewal application was received on March 17, 2015, and additional information was received on April 21, 2015 and May 3, 2015. The application was deemed complete on June 3, 2015. This is a violation of Part III, Section D, Item 10 of the Permit and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).
14. In addition, Respondent is a Major Municipal Treatment Works pursuant to 40 C.F.R. 122.26(b)(14) required to obtain additional coverage under an NPDES Industrial

Stormwater General Permit (hereinafter "General Permit") as stated in 40 C.F.R. 122.26(a), which is incorporated by APC&EC Reg. 6.104. Respondent discharges stormwater associated with industrial activity without coverage under the General Permit in violation of 40 C.F.R. 122.26(a), APC&EC Reg. 6, and Ark. Code Ann. § 8-4-217(a)(3).

15. On January 20, 2016, Respondent submitted to ADEQ a response to the March 10, 2015 inspection, detailing the action that was taken to correct the violations stated in paragraph 11 above.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Respondent must comply with the expired Permit until issuance of the new Permit.
2. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to ADEQ, a report detailing the corrective action the Respondent has taken to correct the previously cited violations in paragraphs 11.a, 11.b, 12.a, 12.b, and 12.c. The report shall also include a stamped certification from a Professional Engineer registered in the state of Arkansas that the treatment plant is in compliance with all permit effluent limits.
3. On or before the effective date of this Order, Respondent shall obtain coverage under the Industrial General Stormwater permit ARR0000000.
4. In compromise and full settlement of the violations specified in the Findings of Fact, the Respondent agrees to pay a reduced civil penalty of Twelve Thousand Fifty Dollars (\$12,050.00). Six Thousand Twenty Five Dollars (\$6,025.00) of the civil penalty

will be suspended if the Respondent has no further violations for the six (6) months from the effective date of this Order. The payment of Six Thousand Twenty Five Dollars (\$6,025.00) is due within thirty (30) calendar days of the effective date of this Order. The reduced civil penalty is also contingent upon Respondent complying with the terms and conditions of this Order. Failure to timely and fully comply with this Order will result in the suspended penalty amount of Six Thousand Twenty Five Dollars (\$6,025.00) being due and payable to ADEQ immediately. 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

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

5. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If the Respondent should fail to meet any such requirements or deadlines, the 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 the Respondent to comply with the requirements of this Order.

6. If any event, including but not limited to an act of nature, occurs which causes or may cause a delay in the achievement of compliance by the Respondent with the requirements or deadlines of this Order, the Respondent shall so notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result, but in no case after the due dates specified 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.

7. ADEQ may grant an extension of any provision of this Order, provided that the 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 the 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 the Respondent and the length of the delay attributable to such circumstances shall rest with the Respondent. Failure to notify the ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

8. All requirements by the Order and Agreement are subject to approval by ADEQ. Unless otherwise specified herein, in the event of any deficiencies, Respondent shall, within the timeframe specified by ADEQ, submit any additional information or changes requested, or take additional actions specified by ADEQ to correct any such deficiencies. Failure to adequately respond to such Notice of Deficiency (NOD) within

the timeframe specified in writing by ADEQ constitutes a failure to meet the requirements established by this Order.

9. 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.

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

11. 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 attached as Exhibit A.

12. 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 A.

13. 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 SIX THOUSAND TWENTY FIVE DOLLARS (\$6,025.00). See Exhibit A.

SO ORDERED THIS _____ DAY OF _____, 2016.

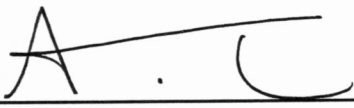
BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Monticello

BY: _____

(Signature)



ZACKERY TUCKER

(Typed or printed name)

TITLE: _____

MAYOR

DATE: _____

8/3/2016

ADEQ

ARKANSAS
Department of Environmental Quality

July 12, 2016

CERTIFIED NUMBER 91 7199 9991 7036 8212 8603

Honorable Zack Tucker
Mayor, City of Monticello
P.O. Box 505
Monticello, AR 71657

RE: **NPDES Permit Number AR0021831, AFIN 22-00379**
Monticello-East Plant
PROPOSED CONSENT ADMINISTRATIVE ORDER

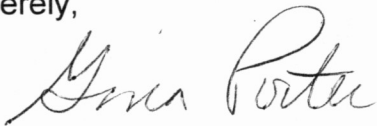
Dear Mayor Tucker:

On December 23, 2015, the Arkansas Department of Environmental Quality – Water Division (ADEQ) issued a proposed Consent Administrative Order (CAO) to the City of Monticello-East Plant with an assessed civil penalty of \$22,650.00. On March 11, 2016, the City of Monticello requested the assessed civil penalty be reduced to \$3,000.00. After careful consideration, ADEQ is willing to accept a reduced penalty offer of \$11,325.00. \$5,662.00 of the civil penalty will be suspended if the Respondent has no further violations for the six (6) months following the effective date of this Order.

Enclosed is a copy of the revised CAO in this matter. If you choose to accept the terms of the CAO, please sign, date, and **return the original, embossed copy** to the address below no later than **August 5, 2016**. Subsequently, the Director of ADEQ will sign the CAO and you will be provided a copy, including information on the public notice process and the effective date of the CAO.

Failure to contact the ADEQ Water Division Enforcement Branch in response to this CAO by **August 5, 2016**, will constitute rejection of the settlement offer and unilateral enforcement action may proceed through a Notice of Violation. Should you wish to discuss this matter further, you may contact me at (501)682-0636, or you may e-mail porterg@adeq.state.ar.us.

Sincerely,



Gina Porter, Enforcement Analyst
Water Division, Enforcement Branch

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

City of Monticello-East Plant
P.O. Box 505
Monticello, AR 71655

LIS No. 16-
Permit No. AR0021831
AFIN 22-00379

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 Monticello (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 waste water treatment plant (facility) located in 1000 Florence Road, Monticello, Drew County, Arkansas.
2. Respondent is regulated pursuant to the National Pollutant Discharge Elimination System (NPDES).
3. Respondent discharges treated wastewater to an unnamed tributary, thence to Godfrey Creek, thence to Lower Cutoff Creek, thence to Cutoff Creek, thence to

Seven Devils Lake, thence to Bayou Bartholomew in Segment 2B of the Ouachita 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 accordance 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 AR0021831 (Permit) became effective on July 1, 2012, and expires on June 30, 2017.

7. Ark. Code Ann. § 8-4-217(a)(3) provides:

(a) It shall be unlawful for any person to:

...

(3) Violate any provisions of this chapter or of any rule, regulation, or order adopted by the [APC&EC] under this chapter or of a permit issued under this chapter by the [ADEQ].

8. 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.

9. 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."

10. On March 10, 2015, the Department conducted a routine compliance inspection of the facility. The inspection revealed the following operational and maintenance issues:

- a. At the time of the inspection the aerator in the easternmost pond was not in operation; and
- b. The curtain in the west pond was under the surface of the water and not operating as designed.

These failures violate Part III Section B.1.A. of the Permit, which requires that the permittee at all times properly operate and maintain all facilities and systems of treatment and control that are installed or used by the permittee to achieve compliance with the conditions of the permit, and therefore also violate Ark. Code Ann. § 8-4-217(a)(3).

11. The Department conducted a review of certified Discharge Monitoring Reports (DMRs) submitted by the Respondent in accordance with the Permit. The review revealed the following violations of the Permit related to the aforementioned DMRs:

- a. From July 1, 2012 through April 30, 2016, Respondent has reported nine (9) violations of the effluent characteristic limitations detailed in the Permit, specifically seven (7) violations of Discharge Flow as percentage of Stream Flow, one (1) violation of pH, and one (1) violation of total recoverable Copper. These failures violated Part I, Section A of the Permit and therefore Ark. Code Ann. § 8-4-217(a)(3).

- b. From July 1, 2012 through April 30, 2016, Respondent failed to submit thirty-four (34) required DMRs by the 25th day of the month following the completed reporting period. These failures violated Part III, Section C.5 of the Permit and therefore Ark. Code Ann. § 8-4-217(a)(3).
- c. For the monitoring periods ending on June 30, 2014, on December 31, 2014, on March 31, 2015, and on December 31, 2015, Respondent failed to conduct required effluent monitoring for Total Recoverable Copper. For the monitoring period ending on December 31, 2014 and on June 30, 2015, Respondent failed to conduct required monitoring for Whole Effluent Toxicity. For the monitoring period ending on February 28, 2015, Respondent failed to conduct required effluent monitoring for Biochemical Oxygen Demand, Total Suspended Solids, Dissolved Oxygen, Fecal Coliform Bacteria, Total Phosphorus, Nitrate +Nitrite Nitrogen and pH. These failures violated Part I, Section A of the Permit and therefore Ark. Code Ann. § 8-4-217(a)(3).

12. In addition, Respondent is a Major Municipal Treatment Works pursuant to 40 C.F.R. 122.26(b)(14) required to obtain additional coverage under an NPDES Industrial Stormwater General Permit (hereinafter "General Permit") as stated in 40 C.F.R. 122.26(a), which is incorporated by reference in APC&EC Reg. 6.104. Respondent discharges stormwater associated with industrial activity without coverage under the General Permit in violation of 40 C.F.R. 122.26(a), APC&EC Reg. 6, and Ark. Code Ann. § 8-4-217(a)(3).

13. On January 20, 2016, Respondent submitted to ADEQ a response to the March 10, 2015 inspection, detailing the action that was taken to correct the violations stated in paragraph 10 above.

ORDER AND AGREEMENT

WHEREFORE, the parties stipulate and agree as follows:

1. Within thirty (30) calendar days of the effective date of this Order, Respondent shall submit to ADEQ, a report detailing the corrective action the Respondent has taken to correct the previously cited violations in paragraphs 10.a, 10.b, 11.a, 11.b, and 11.c. The report shall also include a stamped certification from a Professional Engineer registered in the state of Arkansas that the treatment plant is in compliance with all permit effluent limits.
2. On or before the effective date of this Order, Respondent shall obtain coverage under the Industrial General Stormwater permit ARR0000000.
3. In compromise and full settlement of the violations specified in the Findings of Fact, the Respondent agrees to pay a reduced civil penalty of Eleven Thousand Three Hundred Twenty Five Dollars (\$11,325.00). Five Thousand Six Hundred Sixty Two Dollars (\$5,662.00) of the civil penalty will be suspended if the Respondent has no further violations for the six (6) months from the effective date of this Order. The payment of Five Thousand Six Hundred Sixty Two Dollars (\$5,662.00) is due within thirty (30) calendar days of the effective date of this Order. The reduced civil penalty is also contingent upon Respondent complying with the terms and conditions of this Order. Failure to timely and fully comply with this Order will result in the suspended

penalty amount of Five Thousand Six Hundred Sixty Two Dollars (\$5,662.00) being due and payable to ADEQ immediately. 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

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

4. Failure to meet any requirement or deadline of this Order constitutes a violation of said Order. If the Respondent should fail to meet any such requirements or deadlines, the 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 the Respondent to comply with the requirements of this Order.

5. If any event, including but not limited to an act of nature, occurs which causes or may cause a delay in the achievement of compliance by the Respondent with the requirements or deadlines of this Order, the Respondent shall so notify ADEQ, in writing, as soon as reasonably possible after it is apparent that a delay will result,

but in no case after the due dates specified in this Order. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

6. ADEQ may grant an extension of any provision of this Order, provided that the 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 the 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 the Respondent and the length of the delay attributable to such circumstances shall rest with the Respondent. Failure to notify the ADEQ promptly, as provided in the preceding paragraph of this Section, shall be grounds for a denial of an extension.

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

8. This Order is subject to public review and comment in accordance with Ark. Code Ann. § 8-4-103(d) and APC&EC 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.

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

10. 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 attached as Exhibit A.

11. 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 A.

12. 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 Five Thousand Six Hundred Sixty Two Dollars (\$5,662.00). See Exhibit A.

SO ORDERED THIS _____ DAY OF _____, 2016.

BECKY W. KEOGH, DIRECTOR

APPROVED AS TO FORM AND CONTENT:

City of Monticello

BY: _____

(Signature)


ZAEKERY TOCKER

(Typed or printed name)

TITLE: MAYOR _____

DATE: 8/3/2016 _____