



west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

October 1, 2013

Arbuckle PSD
Earl Woodson
PO Box 369
Minden, WV 25879

CERTIFIED RETURN RECEIPT REQUESTED
91 7199 9991 7032 6255 5089
RE: Violation of Chapter 22, Article 11
of the WV State Code

Dear Mr. Woodson:

Enclosed is revised CONSENT ORDER NUMBER 7649 dated October 1, 2013. This action is based upon the investigation and recommendation of the West Virginia Department of Environmental Protection's (WVDEP) Environmental Enforcement unit in response to Arbuckle PSD violating Chapter 22, Article 11 of the WV State Code at its facility located in Minden, Fayette County, West Virginia. This revision is based upon your recent meeting with David C. Simmons, Enforcement Hearing Officer, and your submittal of financial documents, which were used to evaluate Arbuckle PSD's ability to pay a civil administrative penalty. This administrative settlement is being offered on behalf of the director of the Division of Water and Waste Management.

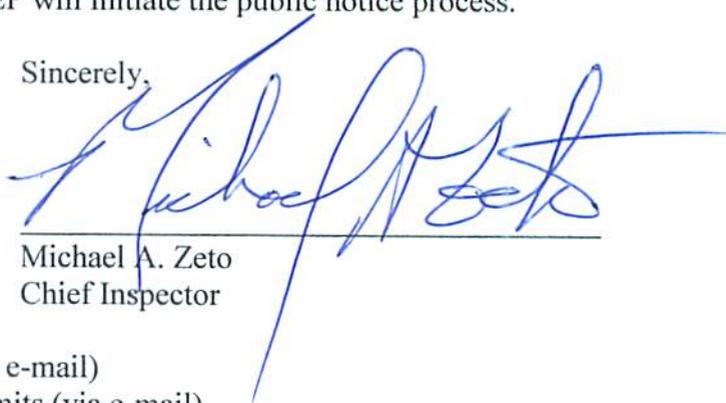
Please review, sign and return the original copy of the revised ORDER to me within five (5) working days of receipt. Subsequently, WVDEP will initiate the public notice process.

Received

OCT - 7 2013

WV Dep
DWWM/Env. Enf./UST & HW

Sincerely,



Michael A. Zeto
Chief Inspector

Enclosure

- cc: Scott G. Mandirola, Director, DWWM (via e-mail)
Yogesh Patel, Asst. Director, DWWM/Permits (via e-mail)
Joseph M. Hickman, Assistant Chief Inspector, EE/WW (via e-mail)
Jeremy Bandy, Assistant Chief Inspector, EE (via e-mail)
David C. Simmons, Enforcement Hearing Officer, EE (via e-mail)
Laura McGee, Environmental Resources Specialist, EE (via e-mail)
Kevin Lilly, Environmental Inspector Supervisor, EE/WW (via e-mail)
Bryan Vandigo, Environmental Inspector, EE/WW (via e-mail)
Shyrel Moellendick, MSSS, EE (via e-mail)



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0495
Fax: (304) 926-0463

Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
WATER POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 11**

TO: Arbuckle PSD
Earl Woodson
PO Box 369
Minden, WV 25879

DATE: October 1, 2013

ORDER NO.: 7649

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code, Chapter 22, Article 11, Section 1 et seq. to Arbuckle PSD (hereinafter "Arbuckle").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Arbuckle operates a 0.4 MGD sewage treatment plant located in Fayette County, West Virginia. Arbuckle was issued WV/NPDES Water Pollution Control Permit No. WV0027022 on April 30, 2009, with an expiration date of April 29, 2014.
2. On April 30, 2009, Arbuckle was issued Administrative Order No. 6227. Attachment A of the Order included interim final effluent limitations for various parameters, provided that Arbuckle adhered to the following compliance schedule stipulated in Attachment B of the Order:
 - a. By May 31, 2009, Arbuckle shall contact the West Virginia Department of Environmental Protection (WVDEP) State Revolving Fund Program to obtain preliminary instructions on the construction of a facilities upgrade.
 - b. By September 30, 2010, Arbuckle shall submit to WVDEP an initial set of plans and specifications for the construction of a facilities upgrade.

Promoting a healthy environment.

- c. By April 30, 2011, Arbuckle shall submit to WVDEP a complete WV/NPDES permit modification application for the facilities upgrade.
 - d. By May 31, 2011, Arbuckle shall obtain final approval of the plans and specifications for the facilities upgrade.
 - e. By March 31, 2012, Arbuckle shall begin construction of the facilities upgrade.
 - f. By January 31, 2014, Arbuckle shall complete construction of the facilities upgrade and comply with the permit limitations.
3. Arbuckle failed to meet the first five (5) of the above noted compliance schedule time frame requirements. Failure to comply with an Order is a violation of WV State Code 22-11-16.
4. On May 31, 2009, Attachment A of Administrative Order No. 6227 was automatically rescinded. The interim final effluent limitations were withdrawn, because Arbuckle did not adhere to the compliance schedule stipulated in Attachment B of the Order.
5. On October 14, 2010, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of Arbuckle's WV/NPDES permit were observed and documented:
 - a. Appendix A.II.1-Lift stations were in poor condition and needed substantial improvements and/or upgrades. The permittee contracted Precision Pump & Valve Service, Inc. to make repairs to the electrical units of the lift station and replace the pump guide rails, floats, etc. The permittee indicated that this work had not begun, because the contractor was waiting for the parts to arrive.
 - b. Section C.12-The permittee failed to implement a satisfactory Inflow and Infiltration (I&I) program to address its collection system problems. This deficiency resulted in frequent unpermitted overflows of raw sewage into Meadow Fork Creek (adjacent to the No. 1 lift station) and overflows caused by surcharging at other points in the waste water collection system. The permittee indicated that it anticipated implementation of the I&I program within the month.
 - c. Appendix A.II.1-The general plant condition was poor and needed substantial improvements and/or upgrades.
 - d. Both clarifiers were operating. Star Manufacturing was in the process of constructing new scum removal arms for both clarifiers, and the permittee indicated that it was not certain of the delivery date.
 - e. The aeration ditch dissolved oxygen (DO) was improved; however, the existing aeration units were marginal at best. The permittee indicated that it was working to obtain a grant for the purchase of new rotors for this system.
 - f. Section A.001-The permittee exceeded the permit effluent limitation for Total Residual Chlorine (TRC) at the time of this inspection. The permittee indicated that a new dechlorination unit was to be installed the following week.
 - g. Appendix A.II.1-Sludge handling appurtenances were marginal to inadequate in terms of proper sludge handling.
 - h. Appendix A.II.1-The permittee failed to properly operate and maintain this facility.

6. On February 10, 2011, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of the terms and conditions of Arbuckle's WV/NPDES permit and WV State Code were observed and documented:
- a. Appendix A.II.1-There was excessive storm water I & I in the collection system, resulting in the hydraulic overloading of this system and the washing out of solids to the receiving stream during rainstorm/snowmelt events.
 - b. Appendix A.II.1-Two of the pump stations only had one pump in operation and had experienced bypassing of raw sewage into waters of the State during rainfall/snowmelt events.
 - c. Appendix A.II.1-Sludge processing equipment was inadequate, resulting in high operational Mixed Liquor Suspended Solids (MLSS), old sludge age, and the loss of solids to the receiving stream during high flow events.
 - d. Appendix A.II.1-One aerator was inoperable due to faulty bearings. DO levels in the oxidation ditch were adequate; however, aeration during summer months is marginal at best.
 - e. Appendix A.II.1-The surface skimmer for the facility clarifiers was ineffective at removal of floating solids, and there was an uneven flow division between the two clarifier units.
 - f. Section D.10-Facility records were inadequate to determine when sludge was last removed/disposed.
 - g. Appendix A.II.1-Housekeeping was marginal due to the lack of a proper maintenance program for the facility and collection system equipment.
 - h. Appendix A.II.1-The facility operator advised that the MLSS level in the oxidation ditch was twice what is normally recommended for this type of a treatment system, resulting in a loss of solids to the receiving stream during high flows.
 - i. Section C.2-The protective fencing at two of the facility lift stations was damaged and ineffective.
 - j. Section D.1-The permittee failed to submit the monthly sewage sludge management report.
 - k. Section A.001-This facility consistently violated permitted effluent limitations for fecal coliform and had periodic exceedences of permitted limitations for dissolved oxygen, TSS, ammonia nitrogen, TRC, and percent removal TSS during the previous year.
 - l. WV State Code 22-11-16-The permittee failed to meet the compliance schedule for the upgrading of this treatment system, as outlined in Attachment B of Administrative Order No. 6227.

As a result of the aforementioned violations, Notice of Violation (NOV) No. W11-10-110210-2-JKL was issued to Arbuckle.

7. On February 15, 2011, WVDEP personnel conducted a compliance sampling inspection of the facility, and the following violations were observed and documented:
- a. Administrative Order No. 6627 was not attached to the copy of the permit kept at the facility.

- b. Appendix A.III.2-The January 2011 Discharge Monitoring Report did not properly list all chlorine effluent limit violations.
- c. Appendix A.II.1-One of three aerators in the oxidation ditch was out of service.
- d. Appendix A.II.1-Very little freeboard was present in the oxidation ditch. Signs of mixed liquor spillage around the edges of the ditch were present.
- e. Appendix A.II.1-Skimmer arms in both clarifiers were not removing floatable solids properly.
- f. Appendix A.II.1-The sludge disposal bagging system ceased to shed water and was, therefore, inoperable, leaving the facility with no way to remove solids from the treatment units.
- g. Section A.001-An effluent fecal coliform grab sample resulted in 18,000 col/100ml, which is an exceedance of the permitted maximum daily limit of 400 col/100ml.
- h. WV State Code 22-11-16-Arbuckle PSD failed to perform the first two tasks outlined by Administrative Order No. 6627 in the time frame specified.

As a result of the aforementioned violations, Arbuckle was issued NOV No. CM-EJP-02-15-11-01

8. On March 28, 2011, WVDEP received a complaint from the Fayette County Health Department. The complainant stated that raw sewage was discharging from a pump station operated by Arbuckle into Meadow Fork Creek, Fayette County, WV. WVDEP personnel investigated this complaint and found it to be valid. This situation constituted violations of the following WV Legislative Rules and permit terms and conditions:
 - a. Appendix A.II.1.-One pump was out of operation at this pump station, as noted in the facility inspection performed on February 10, 2011. This deficiency constitutes a failure to properly operate and maintain all facilities and systems of treatment and control.
 - b. Appendix A.4.2.a-The spill was not properly reported to the WVDEP spill line.
 - c. 47CSR2 Section 3-Discharge of raw sewage created conditions not allowable in waters of the State.
9. On September 21, 2011, WVDEP personnel conducted a review of the Arbuckle's Spill Notification Reports submitted during the time period of September 2009 through September 2011. During this review, it was determined that Arbuckle had reported a total of sixty-four (64) spills, each of which constitutes a violation of the terms and conditions of Arbuckle's WV/NPDES permit (Section C.23).
10. On August 29, 2012, WVDEP personnel and representatives of Arbuckle met to discuss the terms and conditions of this Order.
11. On June 3, 2013, Arbuckle submitted financial documents to WVDEP. The provided information was used to perform an economic analysis which evaluated Arbuckle's ability to pay a civil administrative penalty.

12. On July 29, 2013, WVDEP personnel conducted a review of facility records from January 2010 through January 2013. During this review, the following violations of the terms and conditions of Arbuckle's WV/NPDES permit were observed:
 - a. One hundred fifty-one (151) exceedances of Arbuckle's permit parameters (Section A.001) were observed and documented (Table 1). These exceedances can be further defined as:
 - i. Minor violations-forty-six (46)
 - ii. Moderate violations-fifty-five (55)
 - iii. Major violations-fifty (50)
 - b. Thirty-one (31) failures by Arbuckle to submit required Discharge Monitoring Report (DMR) data (Section A.III.2.a) were observed and documented.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with Chapter 22, Article 11, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties, and ORDERED by the Director:

1. Arbuckle shall immediately take all measures to initiate compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules.
2. Within thirty (30) days of the effective date of this Order, Arbuckle shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Arbuckle will achieve compliance with all terms and conditions of its WV/NPDES permit and pertinent laws and rules. The plan of corrective action shall be submitted to:

**WVDEP Environmental Inspector Supervisor
SE Regional Environmental Enforcement Office
254 Industrial Drive
Oak Hill, WV 25901**

A copy of this plan shall be submitted to:

**Chief Inspector
Environmental Enforcement - Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304**

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Arbuckle's West Virginia Code, Legislative Rule and permit violations, Arbuckle shall be assessed a civil administrative penalty of three thousand dollars

(\$3,000) to be paid to the West Virginia Department of Environmental Protection for deposit in the Water Quality Management Fund in accordance with the following schedule:

- Payment 1 in the amount of \$500 due on or before December 1, 2013.
- Payment 2 in the amount of \$500 due on or before January 1, 2014.
- Payment 3 in the amount of \$500 due on or before February 1, 2014.
- Payment 4 in the amount of \$500 due on or before March 1, 2014.
- Payment 5 in the amount of \$500 due on or before April 1, 2014.
- Payment 6 in the amount of \$500 due on or before May 1, 2014.

Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall be mailed to:**

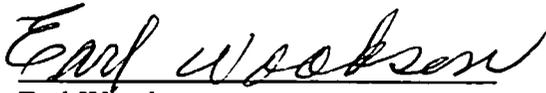
**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Arbuckle hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 11, Section 21 of the Code of West Virginia. Under this Order, Arbuckle agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Arbuckle does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Arbuckle other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Arbuckle shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Arbuckle becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Arbuckle intends to implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of

Arbuckle (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Arbuckle of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Arbuckle to additional penalties and injunctive relief in accordance with the applicable law.
5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
6. This Order is binding on Arbuckle, its successors and assigns.
7. This Order shall terminate upon Arbuckle's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Earl Woodson
Arbuckle PSD

10/3/13

Date

Public Notice begin:

Date

Public Notice end:

Date

Scott G. Mandirola, Director
Division of Water and Waste Management

Date

Table One:
Arbuckle DMR Exceedance Summary

Outlet 001 DMR Exceedances - AVG. MONTHLY - January 2010 - January 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted avg. monthly	Reported avg. monthly	% Exceedance	Min	Mod	Maj
6-30-11	BOD5	mg/l	30	44	47%	-	X	-
12-31-11	BOD5	lb/day	100	130	30%	X	-	-
6-30-10	Ammonia Nitrogen	mg/l	7.8	16.8	115%	-	X	-
6-30-10	Ammonia Nitrogen	lb/day	26	121	365%	-	-	X
7-31-10	Ammonia Nitrogen	mg/l	7.8	24.1	209%	-	X	-
7-31-10	Ammonia Nitrogen	lb/day	26	94.47	263%	-	X	-
8-31-10	Ammonia Nitrogen	mg/l	7.8	11.6	49%	-	X	-
9-30-10	Ammonia Nitrogen	mg/l	7.8	19.7	153%	-	X	-
10-31-10	Ammonia Nitrogen	mg/l	7.8	21.4	174%	-	X	-
11-30-10	Ammonia Nitrogen	mg/l	7.8	15.7	101%	-	X	-
11-30-10	Ammonia Nitrogen	lb/day	26	38.62	49%	-	X	-
2-28-11	Ammonia Nitrogen	mg/l	7.8	9.63	23%	X	-	-
3-31-11	Ammonia Nitrogen	lb/day	26	60	131%	-	X	-
5-31-11	Ammonia Nitrogen	lb/day	26	40.9	57%	-	X	-
7-31-11	Ammonia Nitrogen	mg/l	7.8	16.5	112%	-	X	-
8-31-11	Ammonia Nitrogen	mg/l	7.8	26.1	235%	-	X	-
8-31-11	Ammonia Nitrogen	lb/day	26	26.8	3%	X	-	-
9-30-11	Ammonia Nitrogen	mg/l	7.8	27.8	256%	-	X	-
9-30-11	Ammonia Nitrogen	lb/day	26	26.7	3%	X	-	-
1-31-10	Fecal Coliform	cnt/100ml	200	460	130%	-	X	-
5-31-10	Fecal Coliform	cnt/100ml	200	6000	2900%	-	-	X
6-30-10	Fecal Coliform	cnt/100ml	200	6000	2900%	-	-	X
10-31-10	Fecal Coliform	cnt/100ml	200	6000	2900%	-	-	X
11-30-10	Fecal Coliform	cnt/100ml	200	5200	2500%	-	-	X
12-31-10	Fecal Coliform	cnt/100ml	200	6000	2900%	-	-	X
1-31-11	Fecal Coliform	cnt/100ml	200	3200	1500%	-	-	X
2-28-11	Fecal Coliform	cnt/100ml	200	6000	2900%	-	-	X
3-31-11	Fecal Coliform	cnt/100ml	200	6000	2900%	-	-	X
4-30-11	Fecal Coliform	cnt/100ml	200	250	25%	X	-	-
6-30-11	Fecal Coliform	cnt/100ml	200	891	346%	-	-	X
8-31-11	Fecal Coliform	cnt/100ml	200	300	50%	-	X	-
9-30-11	Fecal Coliform	cnt/100ml	200	4900	2350%	-	-	X
12-31-11	Fecal Coliform	cnt/100ml	200	827	314%	-	-	X
2-28-12	Fecal Coliform	cnt/100ml	200	827	314%	-	-	X
3-31-12	Fecal Coliform	cnt/100ml	200	600	200%	-	X	-
7-31-12	Fecal Coliform	cnt/100ml	200	550	175%	-	X	-
11-30-12	Fecal Coliform	cnt/100ml	200	6000	2900%	-	-	X
7-31-10	TRC	mg/l	0.012	0.28	2233%	-	-	X
8-31-10	TRC	mg/l	0.012	0.27	2150%	-	-	X
9-30-10	TRC	mg/l	0.012	0.77	6317%	-	-	X
10-31-10	TRC	mg/l	0.012	0.74	6067%	-	-	X
11-30-10	TRC	mg/l	0.012	0.56	4567%	-	-	X
12-31-10	TRC	mg/l	0.012	0.17	1317%	-	-	X
2-28-11	TRC	mg/l	0.012	0.17	1317%	-	-	X
9-30-11	TRC	mg/l	0.012	0.14	1067%	-	-	X
2-28-12	TRC	mg/l	0.012	1.065	8775%	-	-	X
3-31-12	TRC	mg/l	0.012	0.03	150%	-	X	-
4-30-12	TRC	mg/l	0.012	0.08	567%	-	X	-
5-31-12	TRC	mg/l	0.012	0.05	317%	-	X	-
6-30-12	TRC	mg/l	0.012	0.08	567%	-	X	-
7-31-12	TRC	mg/l	0.012	0.019	58%	X	-	-
8-31-12	TRC	mg/l	0.012	0.37	2983%	-	-	X
9-30-12	TRC	mg/l	0.012	0.08	567%	-	X	-
10-31-12	TRC	mg/l	0.012	0.07	483%	-	X	-
11-30-12	TRC	mg/l	0.012	0.07	483%	-	X	-
12-31-12	TRC	mg/l	0.012	0.04	233%	-	X	-
1-31-13	TRC	mg/l	0.012	0.04	233%	-	X	-
6-30-10	TSS	lb/day	100	144.1	44%	-	X	-
9-30-10	TSS	mg/l	30	34	13%	X	-	-
3-31-11	TSS	lb/day	100	140	40%	X	-	-
5-31-11	TSS	lb/day	100	105	5%	X	-	-
6-30-11	TSS	mg/l	30	94	213%	-	X	-
7-31-11	TSS	mg/l	30	78	160%	-	X	-
8-31-11	TSS	mg/l	30	100	233%	-	X	-
8-31-11	TSS	lb/day	100	102.82	3%	X	-	-
9-30-11	TSS	mg/l	30	72	140%	-	X	-
12-31-11	TSS	mg/l	30	33	10%	X	-	-
12-31-11	TSS	lb/day	100	195	95%	-	X	-

Table One:
Arbuckle DMR Exceedance Summary

Outlet 001 DMR Exceedances - MAX. DAILY - January 2010 - January 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted max. daily	Reported max. daily	% Exceedance	Min	Mod	Maj
3-31-10	Ammonia Nitrogen	lb/day	52	60.65	17%	X	-	-
6-30-10	Ammonia Nitrogen	mg/l	15.6	16.8	8%	X	-	-
6-30-10	Ammonia Nitrogen	lb/day	52	716	1277%	-	-	X
7-31-10	Ammonia Nitrogen	mg/l	15.6	24.1	54%	X	-	-
7-31-10	Ammonia Nitrogen	lb/day	52	442.19	750%	-	-	X
8-31-10	Ammonia Nitrogen	lb/day	52	63.27	22%	X	-	-
9-30-10	Ammonia Nitrogen	mg/l	15.6	19.7	26%	X	-	-
10-31-10	Ammonia Nitrogen	mg/l	15.6	21.4	37%	X	-	-
11-30-10	Ammonia Nitrogen	mg/l	15.6	15.7	1%	X	-	-
3-31-11	Ammonia Nitrogen	lb/day	52	60	15%	X	-	-
7-31-11	Ammonia Nitrogen	mg/l	15.6	16.5	6%	X	-	-
8-31-11	Ammonia Nitrogen	mg/l	15.6	26.1	67%	X	-	-
9-30-11	Ammonia Nitrogen	mg/l	15.6	27.8	78%	X	-	-
6-30-10	BOD5	lb/day	200	426.2	113%	-	X	-
7-31-10	BOD5	lb/day	200	238.52	19%	X	-	-
2-28-10	Fecal Coliform	cnt/100ml	400	460	15%	X	-	-
5-31-10	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
6-30-10	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
8-31-10	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
9-30-10	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
10-31-10	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
11-30-10	Fecal Coliform	cnt/100ml	400	5200	1200%	-	-	X
12-31-10	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
1-31-11	Fecal Coliform	cnt/100ml	400	3200	700%	-	-	X
2-28-11	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
3-31-11	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
6-30-11	Fecal Coliform	cnt/100ml	400	891	123%	-	X	-
10-31-11	Fecal Coliform	cnt/100ml	400	4900	1125%	-	-	X
12-31-11	Fecal Coliform	cnt/100ml	400	827	107%	-	X	-
2-28-12	Fecal Coliform	cnt/100ml	400	827	107%	-	X	-
3-31-12	Fecal Coliform	cnt/100ml	400	600	50%	X	-	-
7-31-12	Fecal Coliform	cnt/100ml	400	550	38%	X	-	-
9-30-12	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
11-30-12	Fecal Coliform	cnt/100ml	400	6000	1400%	-	-	X
7-31-10	TRC	mg/l	0.025	0.34	1260%	-	-	X
8-31-10	TRC	mg/l	0.025	0.37	1380%	-	-	X
9-30-10	TRC	mg/l	0.025	1.07	4180%	-	-	X
10-31-10	TRC	mg/l	0.025	1.1	4300%	-	-	X
11-30-10	TRC	mg/l	0.025	0.98	3820%	-	-	X
12-31-10	TRC	mg/l	0.025	1.5	5900%	-	-	X
1-31-11	TRC	mg/l	0.025	0.3	1100%	-	-	X
2-28-11	TRC	mg/l	0.025	0.3	1100%	-	-	X
9-30-11	TRC	mg/l	0.025	0.14	460%	-	X	-
2-28-12	TRC	mg/l	0.025	0.18	620%	-	-	X
3-31-12	TRC	mg/l	0.025	0.03	20%	X	-	-
4-30-12	TRC	mg/l	0.025	0.08	220%	-	X	-
5-31-12	TRC	mg/l	0.025	0.05	100%	X	-	-
6-30-12	TRC	mg/l	0.025	0.08	220%	-	X	-
7-31-12	TRC	mg/l	0.025	0.09	260%	-	X	-
8-31-12	TRC	mg/l	0.025	0.37	1380%	-	-	X
9-30-12	TRC	mg/l	0.025	0.08	220%	-	X	-
10-31-12	TRC	mg/l	0.025	0.07	180%	-	X	-
11-30-12	TRC	mg/l	0.025	0.07	180%	-	X	-
12-31-12	TRC	mg/l	0.025	0.04	60%	X	-	-
1-31-13	TRC	mg/l	0.025	0.04	60%	X	-	-
3-31-10	TSS	lb/day	200	270.22	35%	X	-	-
6-30-10	TSS	lb/day	200	852.3	326%	-	X	-
7-31-10	TSS	lb/day	200	385.31	93%	X	-	-
6-30-11	TSS	mg/l	60	94	57%	X	-	-
7-31-11	TSS	mg/l	60	78	30%	X	-	-
8-31-11	TSS	mg/l	60	100	67%	X	-	-
9-30-11	TSS	mg/l	60	72	20%	X	-	-

Table One:
Arbuckle DMR Exceedance Summary

Outlet 001 DMR Exceedances - D.O. INSTANTANEOUS, MIN. - January 2010 - January 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted min. daily	Reported min. daily	% Exceedance	Min	Mod	Maj
1-31-10	D.O.	mg/l	6.0	5	166.7%		X	
2-28-10	D.O.	mg/l	6.0	4.447	258.8%		X	
7-31-10	D.O.	mg/l	6.0	4.51	248.3%		X	
8-31-10	D.O.	mg/l	6.0	3.28	453.3%		X	
9-30-10	D.O.	mg/l	6.0	3.61	398.3%		X	
10-31-10	D.O.	mg/l	6.0	3.4	433.3%		X	

Outlet 001 Exceedances - Min. 85% Removal - AVG. MONTHLY - January 2010 - January 2013						Degree of non-compliance		
Date	Parameter	Units	Permitted Minimum % Removal	Reported % Removal	% Exceedance	Min	Mod	Maj
6-30-11	BOD % Removal	%	85.0	77.6	8.7%	X	-	-
10-31-11	BOD % Removal	%	85.0	81	4.7%	X	-	-
12-31-11	BOD % Removal	%	85.0	48.8	42.6%	-	X	-
1-31-12	BOD % Removal	%	85.0	84.2	0.9%	X	-	-
11-30-12	BOD % Removal	%	85.0	55	35.3%	-	X	-
1-31-10	Sus. Solids % Removal	%	85.0	83.0	2.4%	X	-	-
4-30-10	Sus. Solids % Removal	%	85.0	73.0	14.1%	X	-	-
9-30-10	Sus. Solids % Removal	%	85.0	84.3	0.9%	X	-	-
3-31-11	Sus. Solids % Removal	%	85.0	81.6	4.0%	X	-	-
4-30-11	Sus. Solids % Removal	%	85.0	71.6	15.8%	X	-	-
6-30-11	Sus. Solids % Removal	%	85.0	51.5	39.4%	-	X	-
7-31-11	Sus. Solids % Removal	%	85.0	79.0	7.1%	X	-	-
8-31-11	Sus. Solids % Removal	%	85.0	82.0	3.5%	X	-	-
12-31-11	Sus. Solids % Removal	%	85.0	25.0	70.6%	-	-	X
11-30-12	Sus. Solids % Removal	%	85.0	35.6	58.1%	-	X	-

Outlet 001 Totals		Degree of non-compliance		
		Min	Mod	Maj
		46	55	50

Base Penalty Calculation

(pursuant to 47CSR1-6.1)

Responsible Party:

Arbuckle PSD

Receiving Stream:

Arbuckle Creek

Treatment System Design Maximum Flow: 0.4 MGD

Treatment System Actual Average Flow: N/D MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#												
			5a,5c,5g,5h	5b	6a,6b,6c,6d,6e,6g,6h	6f	6i	6j	6l	7b	7c,7d,7e,7f	7g	7h	8a	8b
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1	1	1	1	1	1	1	1
b)	Toxicity of Pollutant	0 to 3	0	0	0	0	0	0	0	0	0	1	0	0	0
c)	Sensitivity of the Environment	0 to 3	1	1	1	0	1	0	1	0	1	1	1	1	0
d)	Length of Time	1 to 3	1	1	2	1	1	1	3	1	3	1	3	3	1
e)	Actual Exposure and Effects thereon	0 to 3	0	2	0	0	0	0	0	0	0	1	0	0	0
Average Potential for Harm Factor			0.6	1	0.8	0.4	0.6	0.4	1	0.4	1	1	1	1	0.4
2)	Extent of Deviation Factor	Factor Range													
	Degree of Non-Compliance	1 to 3	1	1	2	2	1	2	3	1	2	3	3	3	3

Potential for Harm Factors:

1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)

1)d - Length of Time of Violation

1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by $\leq 40\%$ for Avg. Monthly or $\leq 100\%$ for Daily Max., exceed numeric WQ standard by $\leq 100\%$, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by $\geq 41\%$ and $\leq 300\%$ for Avg. Monthly, $\geq 101\%$ and $\leq 600\%$ for Daily Max., exceed numeric WQ standard by $\geq 101\%$ and \leq of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by $\geq 301\%$ for Avg. Monthly, $\geq 601\%$ for Daily Max., exceed numeric WQ standard by $\geq 601\%$, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

Continue rating Findings of Facts (FOF) here, if necessary. Otherwise, continue on Page 3.

1)	Potential for Harm Factor	Factor Range	FOF#												
			8c	9	12ai	12aii	12aiii	12b							
a)	Amount of Pollutant Released	1 to 3	1	1	1	1	1	1							
b)	Toxicity of Pollutant	0 to 3	0	0	1	1	1	0							
c)	Sensitivity of the Environment	0 to 3	1	1	1	1	1	0							
d)	Length of Time	1 to 3	1	1	1	1	1	1							
e)	Actual Exposure and Effects thereon	0 to 3	1	1	1	1	1	0							
Average Potential for Harm Factor			0.8	0.8	1	1	1	0.4	No	No	No	No	No	No	
2)	Extent of Deviation Factor	Factor Range													
	Degree of Non-Compliance	1 to 3	3	1	1	2	3	3							

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
5a,5c, 5g,5h	Minor	Minor	\$600	1	\$600
5b	Minor	Minor	\$1,000	1	\$1,000
6a,6b, 6c,6d, 6e,6g,6h	Minor	Moderate	\$1,400	1	\$1,400
6f	Minor	Moderate	\$1,200	1	\$1,200
6i	Minor	Minor	\$600	1	\$600
6j	Minor	Moderate	\$1,200	1	\$1,200
6l	Minor	Major	\$2,000	1	\$2,000
7b	Minor	Minor	\$400	1	\$400
7c, 7d, 7e, 7f	Minor	Moderate	\$1,500	1	\$1,500
7g	Minor	Major	\$2,000	1	\$2,000
7h	Minor	Major	\$2,000	1	\$2,000
8a	Minor	Major	\$2,000	1	\$2,000
8b	Minor	Major	\$1,700	1	\$1,700
8c	Minor	Major	\$1,900	1	\$1,900
9	Minor	Minor	\$800	64	\$51,200
12ai	Minor	Minor	\$1,000	34	\$34,000
12aai	Minor	Moderate	\$1,500	32	\$48,000
12aiii	Minor	Major	\$2,000	42	\$84,000
12b	Minor	Major	\$1,700	29	\$49,300
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$286,000

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -			\$0
6.2.b.4 - Compliance/noncompliance history -			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease		10	(\$28,600)
6.2.b.3 - Cooperation with the Secretary		10	(\$28,600)
6.2.b.5 - Ability to Pay		78.9615	(\$225,830)
Penalty Adjustments			(\$283,000)
Penalty =			\$3,000

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments:	