



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 04/22/2025

REQUESTER: Chris Mattingly, Director of Utilities

PRESENTER: Anthony Purinton, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF CONTRACT K-2425-114: A CONSENT ORDER BETWEEN NORMAN UTILITIES AUTHORITY AND THE STATE OF OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR AN AGREED PENALTY OF \$8,500 AND SUPPLEMENTAL ENVIRONMENTAL PROJECT OF \$3,000, CLOSING NOTICE OF VIOLATION NO. W-20806-25-1.

BACKGROUND:

On December 9, 2024, Utilities Staff at the Water Treatment Plant were performing planned maintenance of our bleach generation unit, which required the unit to be offline for a short time. Later that day, when the unit was placed back into service, staff noticed that chlorine residuals leaving the clearwell were dropping. Eventually, staff was able to diagnose and correct the system to reach adequate residual levels, but were required to purge the clearwell in order to prevent the noncompliant water from entering the City's distribution system.

Staff made the decision to divert the treated, noncompliant water from a 16-inch blow-off valve into Rock Creek. To prevent chlorinated water from entering the Creek, staff attempted to de-chlorinate the diverted water using de-chlorination tablets. Unfortunately, despite staff's efforts to de-chlorinate, the measures taken were not sufficient to entirely neutralize the chlorine residual, resulting in chlorinated water being discharged into Rock Creek.

On December 17th, Department of Environmental Quality (DEQ) received Citizen Complaint No. 188865 stating that at least forty dead fish were observed in Rock Creek. That same day, DEQ investigators conducted an inspection of the complaint site and worked with NUA staff to investigate the incident, observing twenty-four dead fish. To prevent recurrence, Staff re-evaluated current flushing policy and established a new policy and SOP for the flushing of large quantities of water. Further improvements and upgrades to the system are also being evaluated to better account for de-chlorination of large quantities of water.

On January 27, 2025, DEQ issued the NUA a Notice of Violation (NOV) regarding the incident, alleging that the discharge of water into Rock Creek violated DEQ regulations. The NOV directed the NUA to take corrective measures necessary to prevent the recurrence of the violation within

15 days of receipt of the NOV. Staff responded to the NOV and provided the updated policy and SOP. DEQ reviewed and approved the policies and procedures of the NUA.

DEQ then reached out to NUA staff to discuss closeout of the NOV. DEQ representatives informed staff that DEQ's internal policy requires the imposition of a \$10,000 penalty (the maximum penalty that can be assessed per day, per violation) for all incidents involving discharges resulting in fish kills. DEQ proposed entering into a Consent Order to that effect. Staff were able to negotiate lowering the fine amount to \$8,500, with the remaining \$1,500 to be used to restock fish in either Rock Creek or a connected body of water. In addition, the NUA would agree to pay an additional \$1,500 towards the restocking.

Although the total amount of funds expended pursuant to the Consent Order (\$11,500) exceeds the original \$10,000 penalty proposed by DEQ, NUA staff would have recommended restocking, regardless, in an attempt to remediate the harm to Rock Creek. Including the restocking as a Supplement Environmental Project (SEP) in the Consent Order allows for some of the funds, that would have otherwise been lost as a penalty, to be redirected back to the impacted area.

DISCUSSION:

Attached is K-2425-114, which is an agreed order ("Consent Order") between the NUA and DEQ for the closeout of NOV No. W-20806-25-1. A consent order acts as an agreed disposition of a violation, which would otherwise require formal regulatory action pursuant to the Oklahoma Administrative Procedures Act. Due to the NUA's acknowledgement of the violation, Staff recommends approval of the Consent Order in lieu of seeking disposition of the violation via the individualized proceeding under the OAPA. If the NUA does not wish to agree to the Consent Order, formal enforcement action will likely be taken by DEQ to seek the administrative penalty against the NUA.

The terms of the Consent Order are relatively simple, with the only substantive element being the imposition of a \$10,000 administrative penalty for the violation. The NUA would be allowed to satisfy the penalty by paying DEQ \$8,500 and the completion of an SEP in the amount of \$3,000 in lieu of payment of the remaining \$1,500 penalty amount. The Order provides that the SEP will be the NUA's restock of fish into the affected portion of Rock Creek, which will be accomplished by coordinating with the Department of Fish and Wildlife. To ensure a successful restocking, the Department of Fish and Wildlife recommend introduction of the fish into Lake Thunderbird, downstream of Rock Creek, which has been approved by DEQ. Due to the time of year and the seasonal movement of fish in the overall watershed, introducing fish into Rock Creek directly is not recommended. Payment and completion of the SEP will be required within 30 days of execution of the Consent Order.

RECOMMENDATION:

Staff recommends approval of K-2425-114. Funding is available to satisfy the total obligation of \$11,500 in Business Services – Other (Account No. 31955234-44199).