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In the Court of Appeals

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APPEAL FROM THE ADMINISTRATIVE LAW COURT
Shirley C. Robinson, Administrative Law Judge

Case No. 16-ALJ-07-0082-CC

A. O. Smith Corporation ..... Appellant,

v.

South Carolina Department of Health and Environmental Control and Town of McBee ..... Respondents.

RECORD ON APPEAL
VOLUME II OF II

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. 16-ALJ-07-0082-CC **PETITIONER A. O. SMITH CORPORATION'S RESPONSE IN OPPOSITION TO TOWN OF MCBEE'S MOTION FOR RELIEF FROM STAY**

Pursuant to Rule 19 of the South Carolina Rules of Procedure for the Administrative Law Court, Petitioner A. O. Smith Corporation ("A.O. Smith"), respectfully submits this response in opposition to Respondent Town of McBee's Motion for Relief from Stay ("Motion") filed on March 17, 2016. Section 1-23-600(H)(4) of the South Carolina Administrative Procedures Act, S.C. CODE ANN. §§ 1-23-10 *et seq.* ("APA"), provides in relevant part: "Upon motion by any party, the court shall lift the stay for good cause shown or if no irreparable harm will occur, then the stay shall be lifted." S.C. CODE ANN. § 1-23-600(H)(4). For the reasons discussed below, the Town has failed to demonstrate good cause to lift the stay and that no irreparable harm will occur if the stay is lifted.

BACKGROUND

A.O. Smith owns and operates a facility (the "Chesterfield County facility") in an unincorporated area of Chesterfield County, South Carolina, where it manufactures water heaters and boilers. The facility also includes an engineering division which designs and tests company products. The Chesterfield County facility has been fully operational since 1983 and currently employs more than 500 persons. (Affidavit of Jeff Barron, attached hereto as Exhibit A,

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hereinafter "Barron Aff.," ¶ 3).

A.O. Smith has critical needs for an adequate, dependable water supply for its Chesterfield County facility, including water for its manufacturing and testing operations, fire protection, and domestic uses. The facility currently operates five days per week with two shifts of eight hours each. (Barron Aff., ¶ 3). During operating hours, the facility's manufacturing, testing, and domestic water requirements are 161 gallons per minute ("gpm") on an average day and 239 gpm on a peak use day. (Barron Aff., ¶ 5). Additionally, A.O. Smith's fire protection system requires an additional minimum instantaneous flow for not less than two hours. (Barron Aff., ¶ 5).

In 1979, A.O. Smith entered a 30-year "non-annexation agreement" with the Town, under which the Town agreed to supply A.O. Smith with water. (Exhibit A to Barron Aff.). That agreement expired in 2009. (*Id.* at ¶ 3). Although A.O. Smith has continued to purchase water services from the Town, A.O. Smith is not located within the town limits of, or contiguous to, the Town and there is no contract between A.O. Smith and the Town for water service. (Barron Aff., ¶ 5). Accordingly, A.O. Smith is merely an "at-will" customer of the Town.

Currently, the Town's public water supply distribution system ("Town System") is generally comprised of two (2) elevated tanks, a wholesale connection to a public water system owned and operated by Alligator Rural Water & Sewer Company, Inc. ("Alligator"), and water distribution lines of differing sizes. (Affidavit of Charles K. Parnell, attached hereto as Exhibit B, hereinafter "Parnell Aff.," ¶ 7). Alligator operates a public water supply and distribution system throughout a large area of Chesterfield County, including the area where the A.O. Smith facility is located. In 1999, the Town asked Alligator to assume the operation and maintenance of the Town's water system. (Exhibit I to Parnell Aff.). At that time, Respondent South

Carolina Department of Health and Environmental Control ("DHEC" or "Department") had issued repeated unsatisfactory ratings following annual inspections of the Town's water system. (Exhibits G, H, and I to Parnell Aff.). In 1999, the Town entered into a 40-year water supply agreement with Alligator ("1999 Agreement"). (Exhibit A to Exhibit 2 of Affidavit of Joan Hartley, attached hereto as Exhibit C, hereinafter "Hartley Aff."). Since that time, Alligator has been the sole source of the Town's water supply. In other words, although A.O. Smith receives an invoice from and pays the Town for water service, the water used at the Chesterfield County facility has come from Alligator since 1999.

The Town's water lines are primarily small in diameter, with a larger 12-inch line extending along U.S. Highway 1 between the A.O. Smith facility and the town limits near the intersection of US Highway 1 and Juniper Avenue. One of the two elevated tanks is located in the Town near the intersection of US Highway 1 and Juniper Avenue and has a capacity of 75,000 gallons. The other is located adjacent to the A.O. Smith facility and has a capacity of 250,000 gallons. (Parnell Aff., ¶ 7). In comparison to the Town's total water storage capacity of 325,000 gallons, the Alligator system has approximately 2,300,000 gallons of storage capacity within two miles of the A.O. Smith facility as well as 5.7 million gallons per day of high service pumping. Additionally, Alligator has a 24-inch water line which runs along U.S. Highway No. 1 adjacent to the Chesterfield County facility. (Parnell Aff., ¶ 10).

By letter dated October 10, 2013, the Town advised A.O. Smith that it intended to place its two existing water supply wells back into operation. (Exhibit B to Barron Aff.). The Town's two wells had been closed since the 2000s when contaminants were detected in the last operating well. (Exhibits B, F, and I to Parnell Aff.).[1] The Town further advised A.O. Smith that these

[1] The Town's engineer acknowledges that testing on the Town's two wells have identified detectable amounts of ethylene dibromide ("EDB") and dibromochloropropane ("BDCP"). (Exhibit K to Parnell Aff.)

two wells would meet all of the water source requirements for the Town system, including service to and for the Chesterfield County facility. (Exhibit B to Barron Aff.). In its Motion, the Town asserts that DHEC issued the Town a Public Water System Operating Permit in June 2011 "that authorized the Town to change its water source." (Town's Motion, p. 2). However, the 2011 Operating Permit makes no such authorization. Indeed, the connection to the Alligator system is the only water supply authorized under this Permit. (Parnell Aff., ¶ H). While the Town's 2011 Operating Permit identifies the Town's well and treatment facility, the Permit clearly states that the "[w]ell and treatment plant are offline due to EDB [ethylene dibromide] detection, and not included in the reliable system capacity analysis." (*Id.*). Contrary to the Town's assertions, the 2011 Operating Permit did not authorize the Town to operate its public water system without the Alligator water source.

In 2014, A.O. Smith upgraded its fire protection system and its engineer determined that the Town's water storage capacity was not sufficient to support the upgraded system. At that time, A.O. Smith entered into discussions with Alligator to provide water service to the Chesterfield County facility. (Barron Aff., ¶ 6). In May 2015, Alligator began construction of approximately 925 linear feet of 12-inch water line to connect its 24-inch line to the A.O. Smith facility water system. (Barron Aff., ¶ 7). On June 17, 2015, prior to the completion of the Alligator service line for the Chesterfield County facility, the Town commenced an action in the Court of Common Pleas for Chesterfield County ("State Court Action"), claiming the legal and exclusive right to provide water service to A.O. Smith under federal law. (Exhibit 1 to Hartley Aff.). On August 17, 2015, Alligator filed an answer and counter-claim, also claiming the legal right to provide water service to the Town of McBee and, in turn A.O. Smith, as a customer

under federal law. (Exhibit 2 to Hartley Aff.). On February 2, 2016, A.O. Smith moved to intervene in the State Court Action. (Exhibit 3 to Hartley Aff.).

On January 12, 2016, DHEC issued to the Town the Final Approval to Place into Operation for Well No. 1 & 2 GAC Contactor Addition (Construction Permit No. 29779-WS) ("GAC Approval") and the Final Approval to Place into Operation for McBee Water System Well No. 2 (Construction Permit No. 28475-WS) ("Well No. 2 Approval") (collectively "Final Approvals"). The Final Approvals each contain the following identical "Special Conditions":

> This Final Approval to operate is being conditionally approved. The Department has concerns about the water system's capacity if only Well No. 1 and Well No. 2 are the sole sources for water supply. The Town of McBee's Public Water System Operating Permit, Permit Number 1310004, contains the following language:
>
> B. System Specific Conditions
>
> > The Town of Mc Bee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.
> >
> > The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quality and quality to ensure compliance.
>
> The Department recommends that the Town of McBee investigate this capacity issue to demonstrate sufficient capacity exists before utilizing Well No. 1 and Well No. 2 as the primary supply of water.

The Final Approvals are clearly stated to be "conditionally approved" and state that DHEC "has concerns about the water system's capacity if only Well No. 1 and Well No. 2 are the sole sources for water supply." Moreover, in the Special Conditions of the Final Approvals, DHEC acknowledges that the Town has submitted to the Department a preliminary engineering report ("PER") to support the use of Well No. 1 and Well No. 2 as the sole source for the McBee water system. In its Motion, the Town admits the purpose of permitting these two wells is "to operate its own sources of drinking water and to cease using water purchased from Alligator." (Town's Motion, p. 2) (emphasis added). However, the Special Condition further acknowledges that the Town has failed to demonstrate that Well No. 1 and Well No. 2 meet the regulatory requirement for source capacity. Despite the terms of the Special Conditions, the Town contends that the Final Approvals allow the Town to operate Wells No. 1 and No. 2 as the source for the Town's public water system without making the requisite demonstration that these two wells have the source capacity to comply with the requirements of Section 61-58.2(B) of the State Primary Drinking Water Regulation.

Additionally, Alligator has repeatedly advised the Town and DHEC that it will not serve as a back-up water supply if the Town places its wells back into operation. For example, by letter dated September 3, 2013, Alligator advised the Town that it would not serve as a back-up water supply if the Town used its own wells as a source for its system and that Alligator "will physically disconnect lines [Alligator] has tied into the Town of McBee's water system." (Exhibit D to Parnell Aff.). Alligator copied DHEC on this letter and further stated that it had repeatedly communicated to DHEC and Rural Development that it would not serve as a backup to the Town's system. Indeed, the DHEC file on the Town's public water system includes multiple communications from Alligator advising DHEC of this position. (*See, e.g.*, Exhibits E

and F to Parnell Aff.). Based on these communications, A.O. Smith reasonably expects that once the Town places its wells into service, those two wells will be the sole source of the Town's water supply. Yet, the Town has failed to demonstrate that the operation of these wells without the Alligator connections will comply with the regulatory requirement of Section 61-58.2(B)(1)(b) of the State Primary Drinking Water Regulation.

DHEC's comments on the PER referenced in the Special Conditions to the Final Approvals further demonstrate that the Town has failed to meet the regulatory requirements for operation of Well No. 1 and Well No. 2 as the primary source for the Town's water system, which should have been a prerequisite to issuance of any approval to operate these wells. (Exhibit I to Parnell Aff.). In its 2011 comments on the PER, DHEC states that the "PER was written to support the Town's desire to end its long-standing (since Dec. 1999) operations and maintenance contract with ARW [Alligator Rural Water]." Indeed, in its Motion, the Town acknowledges that it "submitted a Preliminary Engineering Report to DHEC regarding this plan to transition the Town's water supply." (Town's Motion, p. 2). The DHEC comments on the PER provide in relevant part as follows:

> From 1995 until 1999 the McBee water system received three consecutive unsatisfactory sanitary survey ratings leading up to this O&M agreement with ARW to maintain the system for McBee. DHEC inventory records indicated the McBee system was merged with ARW system when this O&M agreement was initiated and the systems were then one system. However, during this PER review we noted McBee was still an independent system whose only connection to ARW is this agreement.
>
> Since this agreement's inception subsequent sanitary surveys have been satisfactory; however, keep in mind those sanitary surveys cover the entire 'merged' system composed of McBee and ARW but no operational issues have been noted. McBee has significant debt outstanding to USDA Rural Development (RD) for financing its system upgrades. It should be noted here that the final item of Article III, #9, of the O&M agreement between these entities states the O&M "agreement is pledged to the United States of America acting through the United States Department of Agriculture as part of security for a long

> to the Purchaser and Seller from USDA, Rural Development." The purchaser is McBee and the seller is ARW; this indicates the loan's security lies with both entities, thereby complicating McBee's desires to hire a different operator.
>
> McBee's well #1 was placed offline by ARW in 2009 when "contaminants" were discovered during routine water sampling. This well is still offline and other wells in the system area are showing varying levels of EDB, DBCP, radium, MTBE and dry cleaning fluid, although all detects appear to be under the MCLs so far.

(Exhibit I to Parnell Aff.). DHEC expressed serious and multiple concerns in response to the Town's PER which contemplates operation of the Town's water system independent of Alligator. Indeed, DHEC has repeatedly conveyed such concerns to the Town. In a May 25, 2007 letter, DHEC expressed similar concerns to the Town in response to communications regarding the Town's "desire to regain operational control of the McBee water system." (Exhibit B to Parnell Aff.). In this letter, DHEC advises in relevant part:

> According to our records your water system was *merged* with the Alligator Rural Water Company (Alligator) system in August of 2000, indicating to us McBee's customers became customers of Alligator and Alligator assumed ownership of McBee's water system assets. Each of the Department's final three (3) sanitary surveys of the McBee system rated it unsatisfactory due to **lack of quantity to meet the system's customers' needs**, wellhead security issues and distribution system shortcomings. The merger with Alligator led to the resolution of those problems.
>
> Before McBee can terminate the contract with Alligator, the Town must develop and submit an approvable Business Plan that details fully how the system will be operated as a *viable* water system; this business plan must be prepared and submitted to, and approved by, the Department before we can issue an operating permit to the Town of McBee. Please go to our website at www.scdhec.gov/eqc/water/pubs/viability.pdf for the guidance document that is available to assist public water systems in preparing their business plans.
>
> In reviewing the State Primary Drinking Water Regulations (SPDWR), section R.61-58.1, you will note a *viable* water system is defined as having the technical, managerial and financial commitment to consistently comply with the SPDWR and the State Safe Drinking Water Act (SDWA). You will also note a business plan must contain a facilities plan, a management plan and a financial plan.

> To become financially viable, an adequate rate structure needs to be established that allows the system's revenues to exceed its operations and maintenance costs and provide a 'cushion' for any unforeseen repairs.

(Exhibit B to Parnell Aff.) (emphasis in bold added; emphasis in italics in original). Again, DHEC acknowledges that the Town has not made met the regulatory requirements to operate the Town's water system independent of Alligator. Moreover, in the February 12, 2016 Statement of DHEC Staff Position submitted to DHEC Board in response to A.O. Smith request for final review by the Board, the DHEC staff contends that the demonstration of viability requirement does not apply to the Town. (Exhibit 4 to Affidavit of Joseph W. McGougan, attached the Town's Motion). Yet, DHEC's 2011 comments of the Town's PER clearly states the viability must be demonstrated for the Town's independent operation of its water system. (Exhibit I to Parnell Aff.). Both the conditions in the Final Approvals and DHEC's prior communications with the Town regarding its independent operation of its water system unquestionably acknowledge that the Town has not met the regulatory requirements for operation of the Town's water system with the Town's two wells as the primary source of potable water.

Additionally, and significantly, A.O. Smith has engaged an engineer to evaluate the capacity of the Town's system with the Town's two water wells as the primary source of potable water. According to A.O. Smith's engineer, the two water wells will not be sufficient to meet A.O. Smith's demands, including its instantaneous fire flow demands for its Chesterfield County facility. (Parnell Aff, ¶ 12). A.O. Smith's engineer further opines that the capacity of the Town wells does not meet the redundancy requirements of Section 61-58.2(B)(1) of the State Primary Drinking Water Regulation. (Parnell Aff, ¶ 12). The Town is thus incapable of meeting its regulatory obligations without Alligator's water supply. Moreover, if the Town places its wells into operation, A.O. Smith cannot rely on Alligator as either a direct or indirect source of water for its Chesterfield County facility. Pursuant to a Consent Order in the State Court Action,

Alligator has agreed that it will not provide water service directly to A.O. Smith pending the full and final resolution of that litigation. (Exhibit 4 to Hartley Aff.). Also, as discussed above, Alligator has advised the Town and DHEC that it will disconnect is service line to the Town if the Town places its wells back into operation. Therefore, if the Town places its wells into operation, A.O. Smith's Chesterfield facility will be left with only the Town's wells as a source of water, and A.O. Smith's engineer has determined that these wells cannot provide an adequate supply of water for its facility.

Additionally, the Town's water system has been proven unreliable. Particularly, in recent months, the Town's service to A.O. Smith has been interrupted and inadequate to meet its water needs on certain occasions. For example, on June 19, 2015, A.O. Smith lost water pressure at the Chesterfield County plant to the point that all non-essential water uses were curtailed. (Barron Aff., ¶ 8). Moreover, the Town has failed to maintain storage capacity needed to ensure adequate pressure for A.O. Smith's fire protection system on numerous occasions. (Parnell Aff., ¶ 9).

A.O. Smith requires reliable, adequate water service to operate its Chesterfield County facility and to meet its fire protection needs. Yet, the company is currently caught in a tug of war between the Town and Alligator, both of which claim the right to provide water service to A.O. Smith and in which A.O. Smith seemingly has no say. As an at-will customer of the Town, A.O. Smith believes that it is not contractually obligated to purchase its water services exclusively from the Town and is entitled to obtain water service from Alligator, which is the only provider of the two with the capacity and resources needed to provide reliable service for the Chesterfield County facility. However, until the court in the State Court Action rules on the claims of the Town and Alligator, A.O. Smith remains vulnerable to a potential ruling in favor or

the Town and therefore brings this contested case to require the Town to demonstrate that its water system meets the regulatory requirements under the State Primary Drinking Water Regulation for service of the Town's customers, including A.O. Smith. The stay of the Final Approvals is necessary to maintaining the *status quo* pending this Court's determination on the issues raised by A.O. Smith and for preventing irreparable harm to A.O. Smith resulting from operation of the Town's two wells as the primary source for its water system.

STANDARD

Section 1-23-600(H)(4) of the APA provides that "the court shall lift the stay for good cause shown or if no irreparable harm will occur, then the stay shall be lifted." S.C. CODE ANN. § 1-23-600(H)(4). As the moving party, the Town has the burden of proof to show that good cause exists to lift the automatic stay and that no irreparable harm will result from the lifting of the automatic stay. *Leventis v. South Carolina Dep't of Health and Envtl. Control*, 340 S.C. 118, 133, 530 S.E.2d 643, 651 (Ct. App. 2000) (holding that in administrative proceedings, the burden of proof is on the party asserting the affirmative of an issue). "The principle articulated in our case law is that 'good cause' requires some showing more than 'any cause,' which would render the word 'good' meaningless. *Heath Hill v. S.C. Dep't of Health and Envtl. Control*, Docket No. 08-ALJ-0183-CC, 2008 WL 3863539, *3 (S.C. Admin Law. J. Div. Jul. 10, 2008) (copy attached hereto as Exhibit D). In fact, the ALC in *Heath Hill* explained: "courts have found that 'good cause' requires more than personal circumstances or facts that are common to the population in general." *Id.* "Lifting the stay based upon the normal, foreseeable delay, expense, and lost profits associated with an applicant's inability to continue with a project due to the operation of the automatic stay would contradict the legislative purpose of imposing one. Consequently, the court finds that a movant must show circumstances other than those generally suffered by

prospective permittees or licensees to lift the stay. " *MRI at Belfair, LLC v. S.C. Dept. of Health and Envtl. Control*, Docket No. 07-ALJ-07-0538-CC (S.C. Admin Law. J. Div. May 22, 2008) (copy attached as Exhibit E); *see also Sisters of Charity Providence Hospitals v. S.C. Dept. of Health and Envtl. Control and Lexington County Health Services Dist., Inc. d/b/a Lexington Medical Center*, Docket No. 14-ALJ-07-0332 (S.C. Admin Law. J. Div. Dec. 1, 2014) (copy attached hereto as Exhibit F). The Town has failed to meet the burden of proof to demonstrate that it is entitled to an order lifting the automatic stay.[2]

I. Good cause does not exist to lift the automatic stay.

The Town contends that the automatic stay should be lifted because "lifting the stay is the only way to ensure that the Town of McBee can reliably fulfill its core health, safety, and welfare functions as a water supplier." (Town's Motion, p. 4). As stated above, DHEC has repeatedly acknowledged that the Town has not demonstrated that it meets the regulatory requirements of the State Primary Drinking Water Regulation for operation of its water system without Alligator. Alligator has advised the Town and DHEC that it will not serve as a backup system if the Town places its well into operation. Accordingly, the automatic stay is the only means to ensure that the Town can provide reliable and adequate service pending a determination on the merits of the contested case proceedings.

The Town further argues that the stay should be lifted because "continued use of water through Alligator costs the Town approximately $3,000 per week, most of which it saves if it produces its own water. . . . If it is required to continue purchasing from Alligator, those amounts are money that it will never recover and should not have to expend." (Town's Motion, p. 4).

[2] A.O. Smith objects to the affidavits offered in support of this Motion on the grounds that such affidavits contain factual errors, inadmissible hearsay, statements which are not based on the personal knowledge of the affiants, statements which are mere speculation and conjecture, opinions without proper foundation, and statements which are irrelevant and inflammatory. A.O. Smith reserves the right to move to strike these affidavits if offered for any other purpose in this contested case.

This argument would be applicable to any party whose permit or approval to take action pursuant to a regulatory scheme is the subject of a contested case. Moreover, the claim of a mere economic impact of a stay is not sufficient cause to lift the stay. "Lifting the stay based upon the normal, foreseeable delay, expense, and lost profits associated with an applicant's inability to continue with a project due to the operation of the automatic stay would contradict the legislative purpose of imposing one. Consequently, the court finds that a movant must show circumstances other than those generally suffered by prospective permittees or licensees to lift the stay." *MRI at Belfair, LLC v. S.C. Dept. of Health and Envtl. Control*, Docket No. 07-ALJ-07-0538-CC (S.C.A.L.J. May 22, 2008) (Exhibit E); *see also Sisters of Charity Providence Hospitals v. S.C. Dept. of Health and Envtl. Control and Lexington County Health Services Dist., Inc. d/b/a Lexington Medical Center,* Docket No. 14-ALJ-07-0332 (S.C. Admin Law. J. Div. Dec. 1, 2014) (Exhibit F). As such, the Town has failed to show good cause for lifting the stay.

Additionally, the Town contends that it has relied on permits issued in November 2012 and June 2014 to make a $250,000 investment in restoring its former wells to service. (Town's Motion, p. 1). However, DHEC has repeatedly advised the Town, including in the Special Conditions of the Final Approvals, of the Department's concerns about the operation of the Town's wells as a sole source for its water system and that other regulatory requirements must be met prior to operation of these wells without Alligator as an additional primary source. (*See, e.g.*, May 25, 2007 letter (Exhibit B to Parnell Aff.), the 2011 PER Comments from DHEC (Exhibit I to Parnell Aff.), the June 14, 2011 Operating Permit (Exhibit H to Parnell Aff.), September 11, 2014 letter (Exhibit L to Parnell Aff.), Special Conditions to the Final Approvals). Accordingly, in continuing its efforts to operate the Town's wells as the sole source for its water system even after DHEC repeatedly advised the Town of regulatory requirements, the Town thus

proceeded at its own risk and cannot claim that such action and any resulting expense constitutes "good cause" to lift the stay.

With regard to the Town's arguments that the regulatory grounds for A.O. Smith's contested case are untimely, A.O. Smith incorporates is Response to Town of McBee's Motion to Dismiss which is being filed contemporaneously herewith.

II. Lifting the automatic stay would irreparably harm A.O. Smith.

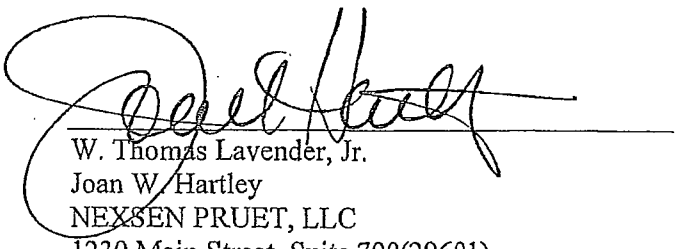
The Town has not and cannot show that no irreparable harm will result from lifting the automatic stay under Section 1-23-600 of the APA. Indeed, the documentation in the DHEC file and A.O. Smith's engineer's analysis of the adequacy of the Town's system with its wells as the primary source demonstrates that A.O. Smith would likely suffer irreparable harm if the automatic stay is lifted. DHEC's failure to require the Town to demonstrate compliance with all regulatory requirements of the State Primary Drinking Water Regulations leaves A.O. Smith's Chesterfield County facility vulnerable to operational disruptions or curtailment and without an adequate water supply for proper operation of its fire protection system. During operating hours, the facility's manufacturing, testing, and domestic water requirements are 161 gallons per minute on an average day and 239 gallon per minute on a peak use day. Additionally, A.O. Smith's fire protection system requires an additional minimum instantaneous flow for not less than two hours. (Barron Aff., ¶ 5). A.O. Smith's engineer has determined that the Town's two wells will not be sufficient to meet A.O. Smith's demands, including its instantaneous fire flow demands for its Chesterfield County facility. (Parnell Aff, ¶ 12). Accordingly, A.O. Smith would be irreparably harmed if the Court grants the Town's Motion to Lift the Stay.

The Town asserts that A.O. Smith's purpose in bringing this contested case is "clearly to injure the Town by preventing it from cutting its payments to Alligator and receiving the benefit

of its investment in new facilities." (Town's Motion, p. 1). To the contrary, A.O. Smith merely seeks to ensure that its Chesterfield County facility has an adequate and reliable source of water. A.O. Smith is caught in a tug of war between the Town and Alligator, both of which claim the right to provide water service to its Chesterfield County facility. As stated above, the State Court Action will determine if Alligator may provide service directly to A.O. Smith under federal law. However, pending the final resolution of that case, Alligator cannot provide service directly to A.O. Smith pursuant to a Consent Order entered by the state court. Moreover, if the state court rules in favor of the Town, then Alligator cannot service A.O. Smith directly. Additionally, Alligator has advised DHEC and the Town that it will not serve as a backup system if the Town places its wells into operation. As such, A.O. Smith has challenged the Final Approvals in this case in order to ensure that the Town's system operating without Alligator meets the regulatory requirements of the State Primary Drinking Water Regulation. A.O. Smith has no intent to "injury the Town," but must take action to ensure that it has an adequate and reliable source of water for its Chesterfield County facility. A.O. Smith has an obligation to its shareholders and its employees to ensure that the Chesterfield County facility has the water required to operate the facility without interruption or curtailment and to ensure optimal operation of its fire suppression system if needed.

CONCLUSION

For the reasons stated above, A. O. Smith requests that the Court deny Respondent Town of McBee's Motion for Relief from Stay.



W. Thomas Lavender, Jr.
Joan W. Hartley
NEXSEN PRUET, LLC
1230 Main Street, Suite 700(29601)
Post Office Drawer 2426
Columbia, SC 29202
803.771.8900
Email: tlavender@nexsenpruet.com
jhartley@nexsenpruet.com

Attorneys for Petitioner A.O. Smith Corporation

April 5, 2016
Columbia, South Carolina

A

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. 16-ALJ-07-0082-CC **AFFIDAVIT OF JEFF BARRON**

PERSONALLY APPEARED BEFORE Jeff Barron, who, after being duly sworn, deposes and says that:

1. I am an adult over the age of 21 years and am competent to make this affidavit.

2. Since March 2014, I have been employed by A.O. Smith Corporation ("A.O. Smith") as the Director of Operations for its facility in Chesterfield County, South Carolina ("Chesterfield County Facility"). As Director of Operations, I am responsible for the operations and management of A.O. Smith's Chesterfield County Facility.

3. The Chesterfield County facility has been fully operational since 1983 and manufactures water heaters and boilers. The facility consists of manufacturing operations, an engineering division which designs and tests company products, and administrative offices. The facility employs approximately 500 persons and currently operates five days per week with two shifts of eight hours each.

4. The property on which the Chesterfield County facility is located is not within the town limits of, or contiguous to, the Town of McBee.

5. The operations of the Chesterfield County Facility are dependent on an adequate, dependable water supply. In addition to domestic water needs, the Facility requires process

water for the manufacturing operations and for the testing of company products in the engineering division. Based on historical use, the Chesterfield County Facility's manufacturing, testing, and domestic water requirements are 161 gallons per minute on an average day and 239 gallon per minute on a peak use day. Additionally, the fire protection system for the Facility requires an additional minimum instantaneous flow for not less than two hours to meet the requirements of our insurance carrier.

6. In 2014, A.O. Smith upgraded its fire protection system and its engineer determined that the Town's water storage capacity was not sufficient to support the upgraded system. At that time, A.O. Smith entered into discussions with Alligator to provide water service to the Chesterfield County Facility.

7. In May 2015, Alligator began construction of approximately 925 linear feet of 12-inch water line to connect its 24-inch line to the A.O. Smith facility water system.

8. In recent months, the Town's service to A.O. Smith has been interrupted and inadequate to meet its water needs. For example, on June 19, 2015, A.O. Smith lost water pressure at the Chesterfield County plant to the point that all non-essential water uses were curtailed.

9. Attached hereto are true and correct copies of the following documents which are maintained by A.O. Smith in the ordinary course of business:

Exhibit A – Non-Annexation Agreement between the Town of McBee and A.O. Smith Corporation dated August 7, 1999; and

Exhibit B – October 10, 2013 letter from John Campolong to A.O. Smith.

FURTHER AFFIANT SAYETH NOT.

Jeff Barron

Jeff Barron

SWORN and subscribed to before me
this 5th day of April, 2016.

(L.S.)
Notary Public for South Carolina
My Commission Expires: March 19, 2017

My Commission Expires
March 19, 2017

Exhibit A

STATE OF SOUTH CAROLINA)
)
TOWN OF McBEE)

NON-ANNEXATION AGREEMENT

THIS AGREEMENT consisting of three (3) pages made and entered into this 7th day of August, 1979, by and between the TOWN OF McBEE, a municipal corporation organized and existing under the laws of the State of South Carolina, hereinafter referred to as the "Town," and A. O. SMITH CORPORATION, a corporation organized and existing under the laws of the State of New York having its principal corporate office in Milwaukee, Wisconsin, hereinafter referred to as the "Company."

WHEREAS, the Company is considering the establishment of a manufacturing facility in the vicinity of McBee, South Carolina; and,

WHEREAS, the Company has entered into a conditional contract to purchase certain real property located near the town limits of the Town as the site of its contemplated manufacturing facility (commonly referred to as of the date of this Agreement as the MAFCO Plant) which real property is more fully described in Exhibit "A" attached hereto and incorporated herein by reference, and is referred to hereinafter as the "Property;" and,

WHEREAS, the contemplated manufacturing facility will provide favorable employment opportunities for the citizens and residents of McBee and environs and would result in considerable benefits to and for the Town; and,

WHEREAS, included among other conditions of the aforementioned contract to purchase the Property are provisions that: (i) the Town will provide a reasonable supply of water to the Property; (ii) fire prevention and rescue services operated by the Town will respond to requests for assistance on the Property; and, (iii) the Town will not annex the Property into the corporate town limits and that the Property will not be

 L.B.S. JOM

included within the town limits at any time prior to October 1, 2009; and

WHEREAS, duly authorized representatives of the Town have concluded that the welfare and best interest of the Town would be best served by agreeing to the aforementioned conditions pertaining to the furnishing of utilities and services to the Property and to future extension of the town limits in order to secure the benefits of a new manufacturing facility in the proximity of the Town.

NOW, THEREFORE,

FOR AND IN CONSIDERATION OF the mutual promises and covenants contained herein, the Town and the Company do hereby agree and contract as follows:

1. The Town agrees to provide a reasonable supply of water to the Company in connection with its contemplated manufacturing facility, consistent with the Town's ability to provide such service from time to time, at published rates and/or fees not in excess of the rate and fees charged to water users in the Town of McBee.

2. The Town agrees that equipment and personnel maintained for the purposes of fire prevention and rescue operations will be made available upon request, from time to time, to render service and assistance to the Property and/or persons thereon, as the case may be.

3. If the boundaries of the Town are extended by annexation or otherwise, the Property will not be included by the Town within the town limits at any time prior to October 1, 2009.

4. This Agreement shall be assignable by the Company on one or more occasions but only with the prior written consent of the Town on each such occasion, which consent the Town agrees will not be unreasonably withheld; and this Agreement shall enure to the benefit of and be binding upon the parties hereto, their successors, and assigns.

L.B.S. JM

IN WITNESS WHEREOF, the parties do hereby bind themselves, their successors and assigns, unto this Agreement by affixing the hands and seals of the proper corporate officials of the parties to this page and initialling all other pages and attached Exhibit on the date first above written.

(Seal) TOWN OF McBEE

ATTEST:

By: Elizabeth M. Hawkins
Town Clerk

By: James M. McCaskill
JAMES M. McCASKILL, Mayor

(Seal) A. O. SMITH CORPORATION

ATTEST:

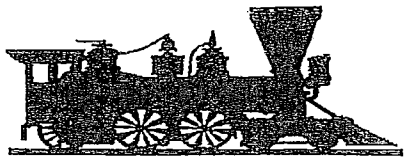
By: James M. Shaw
Its Secretary

By: L. B. Smith
Its Chairman

Exhibit B

TOWN OF McBEE

COUNCIL MEMBERS:
Mrs. Marilyn Fields
Mr. Shilon Green
Mr. A. C. McLeod
Mr. Charlie Sutton



MAYOR:
Mr. John Campolong

ADMINISTRATOR:
Terri King

October 10, 2013

A.O. Smith Corporation
25589 Highway No. 1
McBee, SC 29101-8510

RE: Water Service to A.O. Smith

Dear Gentlemen:

A.O. Smith manufacturing is a valued partner in the Town of McBee community and the Town of McBee appreciates the opportunity to serve this industry. A part of the services that the Town of McBee provides to A.O. Smith is a safe, reliable supply of potable water. This is a role that the Town of McBee takes very seriously for all of our customers, including A.O. Smith.

As you know, the Town of McBee owns and operates the distribution system that provides water to A.O. Smith. This system includes elevated storage tanks and newly reconstructed line work throughout the Town. This network currently provides service to A.O. Smith through a metered connection that is located adjacent to our 250,000 gallon elevated storage tank.

The Town of McBee currently purchases bulk water from Alligator Rural Water through a single metered connection located on Highway 145. In order to be able to ensure the delivery of a high quality water source at a reasonable cost, the Town of McBee has over the period of 3 years embarked on an evaluation of the existing water supply system currently owned by the Town of McBee, as well as other sources of water for the Town's customers. These facilities were in operation until just a couple of years ago.

Post Office Box 248, McBee, SC 29101
Phone: 843-335-8474 Fax: 843-335-5163

This source of water includes two potable water wells, each capable of providing 100% of the Town's daily water requirements. These two wells will each have their own independent chemical treatment facilities. The well located near the Town Hall on Juniper Street, has a permanently installed emergency generator and the well that is located on the north edge of town will have a hook-up for a portable generator. This redundancy and backup goes beyond the minimum requirements by South Carolina DHEC for a water system.

Throughout the review process and the permitting required to place the existing water supply system back into operation, the Town of McBee has worked closely with South Carolina DHEC. They have been aware of the study that was performed on the water system and our efforts to provide a safe, reliable water source for our customers. We have received all of the necessary permits for the new construction and modifications to the existing wells and are working together on a daily basis with South Carolina DHEC in moving forward to place the system back into operation. The water supply system will meet all of the requirements of South Carolina DHEC from a water quality and redundancy standpoint.

The Town of McBee wanted to provide this information to A.O. Smith to assure you that you will receive the highest water quality available. The water quality will be constantly monitored and any need for additional source or treatment will be addressed immediately by the Town of McBee as we work to provide the highest quality of water at the best cost for all of our customers.

We encourage you to ask questions or voice your concerns regarding the Town of McBee's water system. We will be happy to meet with you at any time to discuss these issues and have the Consulting Engineer that has been working closely with us and with South Carolina DHEC available to address your questions or concerns.

I look forward to discussing the water system with you further.

Sincerely,

John Campolong
Mayor

Post Office Box 248, McBee, SC 29101
Phone: 843-335-8474 Fax: 843-335-5163

B

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. 16-ALJ-07-0082-CC **AFFIDAVIT OF CHARLES K. PARNELL**

PERSONALLY APPEARED BEFORE Charles K. Parnell, who, after being duly sworn, deposes and says that:

1. I am an adult over the age of 21 years and am competent to make this affidavit.

2. I am a professional engineer licensed by the South Carolina Board of Labor, Licensing and Regulation. I have been a licensed professional engineer since 1983.

3. Since 1993, I have been President of HPG and Company, Consulting Engineers, Inc. ("HPG"). I have more than 30 years of experience in civil engineering and environmental work, including treatment and process design and management for public water systems.

4. I have been retained by the attorneys for Petitioner A.O. Smith Corporation ("A.O. Smith") as a consulting engineer to provide an analysis regarding the supply of water for A.O. Smith's manufacturing facility in Chesterfield County, South Carolina ("Chesterfield County Facility").

5. My curriculum vitae is attached as Exhibit A to this Affidavit.

6. In the course of my engagement by counsel for A.O. Smith, I have reviewed the Bureau of Water file on the Town of McBee's public water system maintained by the South Carolina Department of Health and Environmental Control ("DHEC).

7. The Town's public water system is generally comprised of two (2) elevated tanks (capacity of 75,000 gallons and 250,000 gallons), a wholesale connection to a public water system owned and operated by Alligator Rural Water & Sewer Company, Inc. ("Alligator"), and water distribution lines of differing sizes.

8. Additionally, I have reviewed documents related to and conferred with A.O. Smith management regarding the water requirements for the Chesterfield County Facility, including water demand for its manufacturing and testing operations, fire protection, and domestic uses.

9. I have reviewed telemetry data in titled "Tank Level Report" provided by Alligator indicating a number of times during 2015, the water level in the A O Smith area elevated tank dropped to a level of 0 feet. This would indicate insufficient water and pressure to operate the manufacturing facility and provide sufficient flow and pressures to supply adequate fire protection.

10. I have also reviewed documents related to the public water system owned and operated by Alligator, and the Alligator connection to supply water to the Town of McBee. Alligator operates a public water supply and distribution system throughout a large area of Chesterfield County, including the area where the A.O. Smith facility is located. The Alligator system has approximately 2,300,000 gallons of ground and elevated storage capacity within two miles of the A.O. Smith facility, as well as 5.7 million gallons per day of high service pumping. Additionally, Alligator has a 24-inch water line which runs along U.S. Highway No. 1 adjacent to the facility.

11. Based on documents and data provided to me, the following demands were used in my analysis:

A O Smith Average Day	161 gpm
A O Smith Peak Day	239 gpm
McBee Average Day	70 gpm
McBee Peak Day	373 gpm
Fire Flow (A O Smith)	1500 gpm

12. I have reached the following professional opinions within a reasonable degree of certainty in my field of expertise:

A. Without the connection to the water supply from Alligator, the Town's two water wells along with its current storage capacity will not be sufficient to meet A.O. Smith's demands, including the minimum fire flow demands for its Chesterfield County Facility.

B. Without the metered connection to the water supply from Alligator, the capacity of the Town wells does not satisfy the redundancy requirements of Section 61-58.2(B)(1) of the State Primary Drinking Water Regulation.

13. Attached hereto are true and correct copies of the following documents from the DHEC Bureau of Water file on the Town of McBee provided to me by DHEC in response to my Freedom of Information Act request:

Exhibit B – May 25, 2007 letter from David C. Price to John Campolong, Jr.;

Exhibit C – Preliminary Engineering Report – Town of McBee, South Carolina Groundwater Well Testing & Evaluation, Well #1 and Well #2, DHEC Submittal, Revisions 1 – December 6, 2010;

Exhibit D – September 3, 2013 letter from Robert E. Blackwell to John Campolong;

Exhibit E – March 11, 2011 email from Glenn Odom to DHEC;

Exhibit F – April 26, 2011 letter from Glenn Odom to Kimberly Forston;

Exhibit G – June 3, 2011 email from John "Mark" Noble to William Botts;

Exhibit H – June 14, 2011 Letter from DHEC to Town with Operating permit for System # 1310004;

Exhibit I – June 14, 2011 letter from William C. Botts to Brian Sexton; and

Exhibit J – August 12, 2011 letter from Jeffrey P. DeBessonet to J. Anthony Floyd;

Exhibit K - May 8, 2014 letter from Joseph W. McGougan to Tracy Scott;

Exhibit L - September 11, 2014 letter from Paula R. Brown to John Campolong.

FURTHER AFFIANT SAYETH NOT.

Charles K. Parnell

Charles K. Parnell

SWORN and subscribed to before me
this 5th day of April, 2016.

(L.S.)
Notary Public for South Carolina
My Commission Expires: May 13, 2024

Exhibit A

HPG and Company
Consulting Engineers, Inc.
www.hpgandcompany.com

Charles K. "Ken" Parnell

1432 Sunset Boulevard
West Columbia, South Carolina 29169
(803) 739-2888
kparnell@hpgandcompany.com
ken@hpgandcompany.com

EMPLOYMENT HISTORY:

1994 – Present
Registered Professional Engineer
HPG and Company, Consulting Engineers, Inc.
1432 Sunset Boulevard
West Columbia, South Carolina 29169
(803) 739-2888

1981 – 1994
Registered Professional Engineer
B.P. Barber & Associates, Inc.
P.O. Box 1116 / 2611 Forest Drive
Columbia, South Carolina 29202

1980 – 1981
Project Engineer
Wilbur Smith Associates
Fort Jackson Boulevard
Columbia, South Carolina

1979 – 1980
Project Engineer
City of Columbia
Laurel Street
Columbia, South Carolina

1978 – 1979
State Parks Engineer
Park Recreation and Tourism
Columbia, South Carolina

1978 – 1979
Project Engineer
Bureau of Water
South Carolina Department of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina

EDUCATION:

Master of Engineering
University of South Carolina, May 1995

Bachelor of Science in Engineering
University of South Carolina, May 1978

Lexington High School, SC, 1974

PROFESSIONAL QUALIFICATIONS:

National Society of Professional Engineers, NSPE
South Carolina Society of Professional Engineers, SCSPE

AWARDS:

Consulting Engineers of South Carolina
1995 Engineering Excellence Award

PUBLICATIONS:

1988, International Symposium on Computer Modeling of Water Distribution Systems, Network Calibration by Real Time Observation, Charles K. Parnell, PE

WORK RELATED EXPERIENCE:

Thirty five years of engineering design and construction in water and wastewater treatment, collection, distribution and pumping primarily for municipalities and other local governments. Work has included water treatment facility design for municipalities such as the city of Columbia, city of West Columbia, city of Greenwood, city of Charleston as well as Beaufort Jasper Water & Sewer Authority, with plants ranging in capacity from 1 MGD to 100 MGD.

Wastewater treatment experience includes design of various wastewater processes ranging from lagoon systems to advanced sequencing batch reactors.

Collection and distribution experience ranges from small gravity collection systems to large diameter force mains and water distribution systems. Pumping system experience includes wastewater pumping stations and VFD water booster stations ranging in capacity from 100 gpm to 4 MGD.

Exhibit B

BOARD:
Elizabeth M. Hagood
Chairman

Edwin H. Cooper, III
Vice Chairman

Steven G. Kisner
Secretary

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

BOARD:
Henry C. Scott

Paul C. Aughtry, III

Glenn A. McCall

Coleman F. Buckhouse, MD

Bureau of Water

May 25, 2007

Councilman John Campolong, Jr.
Town of McBee
P. O. Box 158
McBee, SC 29101

Dear Councilman Campolong:

Thank you for calling us yesterday to talk about the Town of McBee's desire to regain operational control of the McBee water system. As we discussed the Town, Alligator Rural Water Company and the Department must first resolve ownership, operational and management issues before any changes to the current structure will be approved.

According to our records your water system was *merged* with the Alligator Rural Water Company (Alligator) system in August of 2000, indicating to us McBee's customers became customers of Alligator and Alligator assumed ownership of McBee's water system assets. Each of the Department's final three (3) sanitary surveys of the McBee system rated it unsatisfactory due to a lack of quantity to meet the system's customers' needs, wellhead security issues and distribution system shortcomings. The merger with Alligator led to the resolution of those problems.

Before McBee can terminate the contract with Alligator, the Town must develop and submit an approvable Business Plan that details fully how the system will be operated as a *viable* water system; this business plan must be prepared and submitted to, and approved by, the Department before we can issue an operating permit to the Town of McBee. Please go to our website at www.scdhec.gov/eqc/water/pubs/viability.pdf for the guidance document that is available to assist public water systems in preparing their business plans.

In reviewing the State Primary Drinking Water Regulations (SPDWR), section R.61-58.1, you will note a *viable* water system is defined as having the technical, managerial and financial commitment to consistently comply with the SPDWR and the State Safe Drinking Water Act (SDWA). You will also note a business plan must contain a facilities plan, a management plan and a financial plan.

To become financially viable, an adequate rate structure needs to be established that allows the system's revenues to exceed its operations and maintenance costs and provide a 'cushion' for any unforeseen repairs.

If you have any questions, please call me at (803) 898-3993 or Mark Noble at (803) 898-3821 and we can schedule a meeting for all parties involved with this issue. Also, please send the Department a copy of your current agreement with Alligator.

Sincerely,

David C. Price, P.E.
Assistant to the Director
Water Facilities Permitting Division

cc: Mayor Levorn Mack, Town of McBee, P O Box 248, McBee, SC 29101
Alligator Rural Water Company, Attn: Glenn Odom
Mr. Mike J. Hucks, USDA Rural Development, 1835 Assembly St., Room 1007, Columbia, SC 29201
Gary Stowe, P.E., SC DHEC Region 4 Florence Office, Drinking Water Program
SC DHEC Bureau of Water Capacity Development Team Members

Exhibit C

MARZIANO & MCGOUGAN, P.A.

Town of McBee, South Carolina Groundwater Well Testing & Evaluation Well #1 and Well #2

PRELIMINARY ENGINEERING REPORT

DHEC Submittal
Revision 1 - December 6, 2010

APPROVED
BY: _____
DATE: _____

Submitted to

Mr. John Campolong, Mayor
Town of McBee
P.O. Box 248
McBee, South Carolina 29101
(843) 335-8474
(843) 335-5163 fax
vinci@shtc.net

365
William S. Butler

JUN 14 2011

SOUTH CAROLINA PROFESSIONAL SEAL 26409 ENGINEER BRIAN SEXTON
12-6-2010

RECEIVED
DEC 09 2010
WATER FACILITIES
PERMITTING DIVISION

Prepared by

Brian Sexton, P.E.
Marziano & McGougan, P.A.
1300 Second Avenue, Suite 211
Conway, SC 29526
Phone: 843-488-0124
Fax: 843-488-0129
E-mail: bsexton@marziano-mcgougan.com

McBee
419 taps
per Old EFLS

Building innovation.

MARZIANO & MCGOUGAN, P.A.
consulting engineers

December 6, 2010

John Campolong, Jr., Mayor
Town of McBee
PO Box 248
McBee, SC 29101

RE: Preliminary Engineering Report - Groundwater Well Testing & Evaluation
DHEC Comment Responses and Revised Submittal #1
MM Project No. 38005

Dear Mr. Campolong:

Enclosed please find three (3) copies of the revised report for the Groundwater Well Testing & Evaluation. Three copies of this report have been forwarded to William Botts, PE at DHEC's Columbia office for further review and comment. Any additional comments raised by DHEC will be addressed and updated as needed.

M&M appreciates the opportunity to work with you on this important project. Please call if you have any questions about this information.

Sincerely,

Joseph W. McGougan, P.E.
Vice President

Marziano & McGougan, P.A.
1300 Second Avenue
Suite 211
Conway, SC 29526
Phone: 843-488-0124
Fax: 843-488-0129

Town of McBee, South Carolina

PRELIMINARY ENGINEERING REPORT
GROUNDWATER WELL TESTING & EVALUATION
WELL #1 and WELL #2

DHEC COMMENT RESPONSES - ROUND 1

Comments Received: November 1, 2010
Comment Responses Completed: December 6, 2010

1. Well #2 is mentioned as a supplemental source. Please provide more background on this well. Was Well #2 permitted as a public water supply well? If not, then documentation of the construction details must be submitted. The well would have to meet the current construction standards for a public water supply well.

Well #2 has not been in service for several years. At one time, it was active and may have been used to supply A.O. Smith with process water and/or agricultural irrigation in adjacent areas. After field investigations and interviews with Town personnel, Well #2 appears to have never been connected to the McBee water system or used as a public water supply well. McBee acknowledges that the construction methods to install this well must be verified and documented prior to placing into public service. If Well #2 is utilized, a full analysis of the existing well's characteristics, drawdown, and water quality will be undertaken and results forwarded to DHEC.

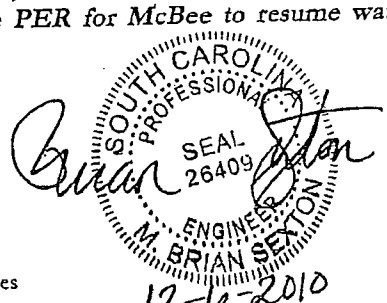
Due to the difficulty and expense in this process, it is more likely that the proposed Well #3 will be installed per DHEC standards for potable water supply.

2. On page 12 of the PER, it stated that Well #3 may be used for irrigation purposes as well as a secondary supply source. Please note that if any water from Well #3 is used for human consumption, the well must be permitted as a public water supply well and constructed to the latest public water supply standards.

McBee acknowledges that the construction methods for proposed Well #3 must be installed per DHEC standards for potable water supply.

3. Oliver Environmental Services is named as the operator if McBee takes over O&M of their system; please submit a draft agreement/contract between these entities. Also, we need an explanation of how they will meet the treatment operator requirements (daily) should treatment become necessary.

A draft agreement from Oliver Environmental has been enclosed with these comment responses. This draft agreement is dated November 18, 2010 and will be considered for official action by the Town after DHEC approves the PER for McBee to resume water system operations.



4. What will be used for disinfection? Please note that gas chlorine may not be approved because Well #1 is in a populated area (within the Town).

It is expected that Well #3 will be installed with potable water construction methods. Well #3 will serve two purposes. The first use will be for irrigation of proposed recreation fields at the proposed McBee park complex. The second use will be for a secondary supply of potable water to the McBee water system. Well #3 will be piped to the existing Well #1 and connected to the header piping prior to any treatment equipment.

Due to the fact that the existing Well #1 utilizes gas chlorine, this PER analysis assumes that the connection of a secondary supply well to Well #1 will not require any alteration of the existing treatment process. The location of Well #1 is adjacent to residential areas. However, the surrounding land use has not changed since the issuance of the original permit to operate a gas chlorine disinfection system in this area. The Town does not wish to alter this process by converting to a liquid system due to the following reasons:

- *issuance of a recent DHEC permit to construct Well #1 utilizing gas chlorine disinfection (permit #13995, issued February 4, 2000)*
- *significant construction costs to modify the existing treatment process at Well #1*
- *absence of any increased risk to the surrounding residents with the connection of Well #3*

5. How will blending well #1 and well #3 improve the water quality/technical capacity of the system over that which is being done now by ARW?

The primary difference between the existing operations by ARW and the proposed Well #3 addition and McBee operations is purely financial. The service contract in place between these two entities has been perceived by the Town as a punitive contract since early in its inception. Therefore, the Town desires to eliminate this contract and provide potable water to its citizens through Town-owned facilities that are equally capable of providing these services on a water quality and technical capacity basis.

It is expected that the blending of Well #1 and Well #3 will be able to achieve equal water quality as currently provided by ARW. It is possible to treat the water to a better level by ensuring that 100% of the water supplied to McBee residents will be treated with GAC and green sand filtration. Currently, ARW supplies the Town through various wells. Not all of these wells utilize these types of filters and groundwater from numerous wells can be pumped into McBee during the normal and emergency operations of the ARW water system.

Also, it is expected that the proposed system improvements will allow the Town to provide equal, and potentially better, operation of the existing distribution system due to the close proximity of Well #1 to the Town's elevated tank. The fact that ARW has shut down this well and fills this tank with bulk water through a single master meter connection on the periphery of Town has caused a rise in complaints over the low pressures delivered to residents during periods of higher demands. The start-up of Well #1 should be able to eliminate this pressure loss due to the close proximity of Well #1 to the Town's elevated tank.

6. Although the contaminants detected were below the MCL, there is a possibility that the MCL's could be exceeded and treatment deemed necessary. Treatment and disposal of wastes can be very costly. What will effective treatment & disposal do to customers' rates if the MCLs are exceeded? This needs to be supported by a rate study. This could have a significantly negative effect on the system's viability.

The existing financial analysis has been revised to include the potential costs associated with the treatment and disposal of MCL byproducts. It is estimated that McBee has a customer base of 440 residential and commercial connections. Average annual water use is estimated at 75.5 million gallons, or 6.3 million gallons per month. This includes all water consumption, as well as flushing and system losses. Currently, the average residential customer pays $35.00 per month for 5,000 gallons of water. The ARW water rate structure is a $20 flat rate (includes the first 2,000 gallons) plus $5.00 per 1,000 gallons thereafter.

In Scenario 1 of the rate study, it is assumed that groundwater quality will not exceed the MCL for radium or VOCs. This is for comparison reasons and the relatively low probability that groundwater quality will exceed MCLs for these criteria in the immediate future. Regardless of the groundwater quality, the proposed Well #3 and improvements to Well #1 have been included in this scenario by including the new annual debt service of $27,017 ($600,000 @ 3.25% for 40 years).

In Scenario 1, it is significantly less expensive for McBee to provide its own water treatment than to remain with ARW. Therefore, Oliver Environmental, Inc. represents a cost savings of $4.56 per month per customer versus ARW. It should be noted that both alternatives provide for a budget surplus, but Oliver Environmental, Inc. allows McBee to be more "in the black" for Scenario 1.

In Scenario 2 of the rate study, it is assumed that groundwater will exceed the MCL for radium and VOCs. This is the worst case scenario for McBee and requires the disposal of treatment byproducts, particularly wastewater from the radium removal process and GAC replacement for VOC removal.

This analysis assumes the most expensive means of disposal. For radium byproducts, filter backwash for radium will generate up to 350,000 gallons annually that must be pumped and hauled to a nearby sanitary sewer collection system where it can be discharged to achieve dilution, treatment, and disposal. Using a haul load of 4,500 gallons and a roundtrip of up to 100 miles, this translates to an annual cost of approximately $15,000. For VOC byproducts, GAC filter media can be replaced at estimated intervals of every five years. It is estimated that the quantity of media for this application will cost $25,000 every five years, or an annual cost of approximately $5,000. Therefore, the total annual cost to treat and dispose of treatment byproducts for radium and VOCs is estimated at $20,000.

In Scenario 2, it is less expensive for McBee to provide its own water treatment than to remain with ARW. Therefore, Oliver Environmental, Inc. represents a cost savings of $0.78 per month per customer versus ARW. Similar to Scenario 1, both alternatives provide for a budget surplus, but Oliver Environmental, Inc. allows McBee to be more "in the black" for Scenario 2.

In addition, it is McBee may be able to eliminate the need for the radium backwash service requirement in the next 5-10 years if the Town is successful in acquiring funding and permits to construct a central wastewater collection system for its residents. After the gravity collection system is built, any wastewater stream can be discharged to the Town-owned collection system for dilution, treatment, and disposal at no additional cost to the Town.

7. Option #1 and #2 for Immediate Water System Needs each requires a large capital outlay for construction; how will this be funded? Option #1 is $296,340 and Option #2 is $346,250.

Option #1 is the preferred alternative. The total project cost of nearly $600,000 (new Well #3, connecting pipeline, and filter additions at Well #1) is a substantial investment by the Town for the future of the water system's success and stability. The Town feels that substantial savings for its customers can be achieved through the implementation of these projects. The primary funding sources being considered by the Town are USDA Rural Development and Drinking Water State Revolving Fund (DWSRF). In this analysis, an interest rate of 3.25% for a term of 40 years is used as potential USDA loan conditions. Other grant/loan programs can be investigated based on variables in the Town's economy, jobs outlook, and critical health needs.

8. Has the Town attempted to restructure the O&M agreement with ARW? Revising the agreement may be a less costly option.

The Town has pursued many avenues to renegotiate with ARW to no avail. It has been an ongoing issue that has taken significant efforts by the Town's elected officials to pursue legal action against ARW for what it feels to be unjust and arbitrary rate increases. The Town feels that these rate increases were not properly audited on an annual basis in accordance with contract requirements.

McBee recently won a lawsuit that keeps the per 1,000 bulk water rate the same ($1.25) for the last several years due to ARW's failure to properly audit and support the need for its previously mandated rate increases. In 2010, ARW was billing the Town at a rate of $1.76 per 1,000 gallons; however, the Town only paid $1.25 in support of its position. Any future rate increases will have to be supported by ARW in accordance with the contract requirements.

It is expected that ARW will revisit the notion for McBee to pay additional rates in the near future. For this analysis, it is expected that Year 1 water rate will be the average of the currently valid rate ($1.25 per 1,000 gallons) and ARW's previous billing rate ($1.76 per 1,000 gallons). Therefore, the Year 1 rate = $1.50 per 1,000 gallons.

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Promoting and protecting the health of the public and the environment

Bureau of Water

November 1, 2010

Mr. Brian Sexton, PE
Marziano & McGougan, P.A.
1300 Second Ave., Ste 211
Conway, SC 29526

RE: Groundwater Well Evaluation
Town of McBee
Chesterfield County

Dear Mr. Sexton:

This Office has initiated review of the above referenced project in accordance with the State Primary Drinking Water Regulations, R.61-58. Before we can continue our review, the following item(s) must be sufficiently addressed:

1. Well #2 is mentioned as a supplemental source. Please provide more background on this well. Was Well #2 permitted as a public water supply well? If not, then documentation of the construction details must be submitted. The well would have to meet the current construction standards for a public water supply well.

2. On page 12 of the PER, it stated that Well #3 may be used for irrigation purposes as well as a secondary supply source. Please note that if any water from Well #3 is used for human consumption, the well must be permitted as a public water supply well and constructed to the latest public water supply standards.

3. Oliver Environmental Services is named as the operator if McBee takes over O&M of their system; please submit a draft agreement/contract between these entities. Also, we need an explanation of how they will meet the treatment operator requirements (daily) should treatment become necessary.

4. What will be used for disinfection? Please note that gas chlorine may not be approved because Well #1 is in a populated area (within the Town).

5. How will blending well #1 and well #3 improve the water quality/technical capacity of the system over that which is being done now by ARW?

6. Although the contaminants detected were below the MCL, there is a possibility that the MCL's could be exceeded and treatment deemed necessary. Treatment and disposal of wastes can be very costly. What will effective treatment & disposal do to customers' rates if the MCLs are exceeded? This needs to be supported by a rate study. This could have a significantly negative effect on the system's viability.

7. Option #1 and #2 for Immediate Water System Needs each requires a large capital outlay for construction; how will this be funded? Option #1 is $296,340 and Option #2 is $346,250.

8. Has the Town attempted to restructure the O&M agreement with ARW? Revising the agreement may be a less costly option.

Please refer to the above referenced project name when resubmitting the required information. If you have any questions or wish to discuss, please call me at (803) 898-3818 or email at bottswc@dhec.sc.gov.

Sincerely,

William C. Botts

William C. Botts, PE
Water Supply & Rec. Waters Permitting Section

CC: Paula Brown, Florence EQC Office
Mr. John Campolong, Mayor, Town of McBee, PO Box 248, McBee, SC 29101

Town of McBee – Water Supply Analysis
Groundwater Well Testing and Evaluation

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- Resume for Joey Oliver, Olivet Environmental, Inc.
- Summary of O&M Duties – McBee v/s Private Contractor
- Request for Proposals (sent July 2008 to all Certified Operators within 50 miles of McBee)

Town of McBee – Water Supply Analysis
Groundwater Well Testing and Evaluation

1.0 Project History and USDA's Requirements for Water System Transfer

One of the ultimate goals of this report is to empower the Town of McBee to resume daily operations and production at its own water facilities. The current contract arrangement with Alligator Rural Water (ARW) is a relationship that the Town has expressed interest in terminating for several years. In order for McBee to resume operational control over its water facilities, USDA, the owner of McBee's water system debt, established several conditions that must be met in order to support the transfer of O&M responsibilities back to McBee. The four (4) primary conditions laid out by USDA, summarized below, require McBee to prove its ability provide citizens with a safe and reliable drinking water supply that is operated in a safe and consistent manner.

1) Provide a clean audit report (completed)

2) Documentation of how McBee would replace ARW's provision of water supply:

   Included in the Scope of this Report
   a. Source water production
   b. Costs associated with obtaining source water

   Outside the Scope of this Report
   a. Proposed funding sources

3) Financial O&M projections after McBee replaces ARW's provision of O&M services:

   Completed in RFP for Contract Services, July 2008 (see Appendix 3)
   a. Source water production
   b. Projected costs/revenues for one fiscal year
   c. O&M responsibilities for the Town of McBee and a private contractor

4) Required engineering and DHEC approval requirements

   Included in the Scope of this Report
   a. Engineering recommendations and cost estimates
   b. Contact DHEC to determine the agency's opinion of permitting the existing Well #2 and continued operation of Well #1

   Outside the Scope of this Report
   a. Detailed engineering design and permitting of proposed facilities
   b. Detailed oversight to transfer permits and O&M responsibilities of water system from ARW to Town of McBee
   c. Detailed coordination with DHEC staff and permitting requirements

2.0 Project Description

Since the summer of 2009, the Town of McBee's primary water supply well (Well #1 located near town hall) has been shut down due to the presence of contaminants in the groundwater that were detected during routine monitoring tests. Alligator Rural Water (ARW) opted to disconnect Well #1 from McBee's distribution system. ARW currently supplies McBee and the surrounding service area through water produced and treated at ARW-owned wells located outside of the town limits. These wells, although adequate for the purpose of supplying McBee and adjacent areas with safe drinking water, have replaced McBee's normal water supply well (Well #1).

Since Well #1 has ceased operating, no water quality sampling has been conducted at Well #1 to further assess the amount of contaminants present in the groundwater at this location. Although low levels of contaminants were detected in the groundwater at Well #1, the levels were below the federal Maximum Contaminant Level (MCL) established by EPA for these contaminants, as reported by ARW to the Town of McBee. According to Town officials, the identity and levels of the detected contaminants in Well #1 were not made available to the Town of McBee.

McBee considers Well #1 to be an asset to the Town's water infrastructure because Well #1 is a centrally located supply point in the distribution system layout, and McBee desires to be supplied through this existing resource. McBee hired Marziano & McGougan, P.A. (M&M) to sample Well #1 to determine the extent of contaminants and recommend any treatment modifications at Well #1 that can remove these pollutants. Additionally, M&M sampled and made similar recommendations for Well #2, located outside of the town limits behind the A.O. Smith manufacturing facility. It should be noted that Well #2 is an inactive well that could serve as a redundant and/or supplemental groundwater supply for the Town of McBee.

3.0 Existing Water System Components

The McBee water system consists of approximately 80,000 linear feet (15 miles) of PVC water distribution mains located in southern Chesterfield County, South Carolina. McBee serves approximately 385 residential water connections; in addition, the system serves approximately 50 commercial customers. The average daily water demand is approximately 207,000 gallons per day (calendar year 2007). The system is normally supplied through the use of one (1) primary supply well with a pumping capacity of approximately 600 gallons per minute (gpm). Currently, McBee has one (1) primary interconnection with ARW that is the sole source of water supply to the Town. A secondary Well #2, located two miles from Town Hall behind the A.O. Smith manufacturing company, is currently off-line but could be used as a backup supply in the future. Additional water infrastructure can be summarized as follows:

- Water treatment plant at Well #1 site, consisting of a liquid lime feed system, bulk chemical storage, chlorine gas treatment, and appurtenant SCADA telemetry.
- One 75,000 gallon elevated storage tank located at the Well #1 site.
- One 250,000 gallon elevated storage tank located at A.O. Smith manufacturing

4.0 Definition of Contaminants: DBCP, EDB & Radium

For the purposes of this study, M&M was requested to take water quality samples for three parameters of interest: (1) DBCP (also known as 1,2-Dibromo-3-chloropropane), (2) EDB (also known as Ethylene bromide and 1,2-Dibromoethane), and (3) combined radium (Radium 226 + Radium 228). DBCP and EDB levels were to be determined at the request of the Town of McBee; radium levels were to be determined at the request of the DHEC.

4.1 DBCP (1,2-Dibromo-3-chloropropane)

DBCP, is a dense yellow organic liquid with a pungent odor. DBCP is used primarily as an unclassified nematocide for soil fumigation of cucumbers, summer squash, cabbage, cauliflower, carrots, snap beans, okra, aster, shasta daisy, lawn grasses and ornamental shrubs. Long-term consumption and exposure to drinking water with DBCP levels above the MCL may cause individuals to experience reproductive difficulties or an increased risk of cancer. The MCL for DBCP is 0.20 parts per billion (0.20 ppb) or 0.20 micrograms per liter (0.20 µg/L).

4.2 EDB (1,2-Dibromoethane)

EDB is regulated by EPA according to the Safe Drinking Water Act of 1974. EDB is a colorless, heavy synthetic organic liquid with a mildly sweet chloroform-like odor. EDB is mainly used in anti-knock gasoline mixtures, particularly aviation fuel. Long-term consumption and exposure to drinking water with EDB levels above the MCL may cause individuals to experience problems with the liver, stomach, reproductive system, or kidneys, and may have an increased risk of cancer. The MCL for EDB is 0.05 parts per billion (0.05 ppb) or 0.05 micrograms per liter (0.05 µg/L).

4.3 Total Combined Radium (Radium 226 + Radium 228)

Total combined radium (Radium 226 + Radium 228) is regulated by EPA according to the Safe Drinking Water Act of 1974. Most drinking water sources have very low levels of radioactive contaminants, or radionuclides. Most of these radionuclides are naturally occurring, although contamination of drinking water sources from human-made nuclear materials can also occur. Most radioactive contaminants are at sufficiently low levels to not be considered a public health concern. At higher levels, long-term consumption and exposure to drinking water with radionuclides (Radium 226 + Radium 228) above the MCL may cause an increased risk of cancer. The MCL for total combined radium (Radium 226 + Radium 228) is 5 pico-Curies, or 5 pCi.

5.0 Sampling and Testing Procedures

Sampling occurred on three separate occasions from March 25th to April 29th 2010.

5.1 First Sample – Well #1 & Well #2

On March 25th, 2010, water samples were taken at Well #1 and Well #2. Each well was flushed for several hours prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 110,000 gallons (metered) were flushed through Well #1 prior to taking the sample. Approximately 180,000 gallons (un-metered) were flushed through Well #2 prior to taking the sample. This large quantity of run-off water was necessary because both of these wells were shut down/inactive for a prolonged period.

GEL Laboratories provided 1.0 liter and 2.0 liter samples bottles that were filled and sealed for the radionuclides testing. GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of Marziano & McGougan, P.A. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis.

All of the 1.0 liter and 2.0 liter samples bottles for the radionuclides testing arrived in satisfactory condition and were processed for further analytical testing. However, the 40 mL sample vials for the organic chemicals testing (EDB, DBCP) arrived at GEL Laboratories above the normal testing temperature range of 0 to 6 degrees C. Therefore, these 40 mL samples were not utilized and were rejected at the request of the engineer. This was due to a combination of factors including the following: 24-hour period between taking of the samples and receipt by GEL Laboratories, warm air temperatures that led to the relatively quick melting of the blue ice blocks provided with the cooler, presence of additional large sample bottles in a small cooler that allowed no additional room for ice and sped up the melting process. Therefore, the samples had to be taken again in order to fill newly prepared 40 mL sample vials for the organic chemicals testing (EDB, DBCP).

5.2 Second Sample – Well #2 Only

On April 22nd, 2010, water samples were taken for the second time at Well #2. The well was flushed for approximately two hours prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 30,000 gallons (un-metered) were flushed through Well #2 prior to taking the sample. It should be noted that Well #1 could not be accessed during this time and was rescheduled one week later.

GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of M&M. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis. The 40 mL sample vials for the organic chemicals testing arrived in satisfactory condition and were processed for further analytical testing.

5.3 Third Sample – Well #1 Only

On April 29th, 2010, water samples were taken for the second time at Well #1. The well was flushed for approximately ten minutes prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 5,000 gallons (metered) were flushed through Well #1 prior to taking the sample. It should be noted that Well #1 could not be accessed during this time and was rescheduled one week later.

GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of M&M. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis. The 40 mL sample vials for the organic chemicals testing arrived in satisfactory condition and were processed for further analytical testing.

6.0 Analytical Results for First Sample

On April 23rd, 2010, analytical results were completed by GEL Laboratories for the First Sample. The analytical results were for both wells, radionuclides only.

Well #1 was found to have the following results:

Table 1 – Test Results for Well #1 (Radium)

Parameter	Result	% Uncertainty	Test Method
Radium 228	none detected	N/A	1
Radium 226	3.07 pCi	+/- 1.00	2
Radium 226	1.95 pCi	+/- 0.425	3

Please refer to page 3 of 12 of the April 23rd report from GEL Laboratories for the Well #1 results summary in its entirety. Well #2 was found to have the following results:

Table 2 – Test Results for Well #2 (Radium)

Parameter	Result	% Uncertainty	Test Method
Radium 228	none detected	N/A	1
Radium 226	1.04 pCi	+/- 0.644	2
Radium 226	0.767 pCi	+/- 0.256	3

Please refer to page 4 of 12 of the April 23rd report from GEL Laboratories for the Well #2 results summary in its entirety.

6.1 Water Quality of First Sample (Radium 226 + Radium 228)

The test results for Well #1 indicate that the total combined radium (Radium 226 + Radium 228) for Well #1 does not exceed 3.07 pCi, less than the MCL (5 pCi). Therefore, with respect to total combined radium, Well #1 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 60% of the MCL concludes that the Town of McBee should closely monitor the total combined radium at Well #1 to ensure that the MCL is not exceeded in any given year. DHEC and EPA require annual testing for total combined radium as part of the annual Consumer Confidence Report delivered to all customers of public water systems.

The test results for Well #2 indicate that the total combined radium (Radium 226 + Radium 228) for Well #2 does not exceed 1.04 pCi, less than the MCL (5 pCi). Therefore, with respect to total combined radium, Well #2 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 20% of the MCL concludes that the Town of McBee should closely monitor the total combined radium at Well #2 to ensure that the MCL is not exceeded in any given year.

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7.0 Analytical Results for Second Sample

On June 9th, 2010, analytical results were completed by GEL Laboratories for the Second Sample. The analytical results were for Well #2 only, organic chemicals only.

Well #2 was found to have the following results:

Table 3 – Test Results for Well #2 (DBCP, EDB)

Parameter	Result	MCL	% Uncertainty	Test Method
DBCP (1,2-Dibromo-3-chloropropane)	0.0189 µg/L	0.200 µg/L	N/A	1
EDB (1,2-Dibromoethane)	none detected	0.050 µg/L	N/A	2

Please refer to page 3 of 9 of the June 9th report from GEL Laboratories for the Well #2 results summary in its entirety. It should be noted that the June 9th report replaces the May 5th report and analytical results due to a lab error.

7.1 Water Quality of Second Sample (DBCP)

The test results for Well #2 indicate that the DBCP level for Well #2 is 0.0189 µg/L (none detected), less than the MCL (0.200 µg/L). Therefore, with respect to DBCP, Well #2 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 9.5% of the MCL concludes that the Town of McBee should closely monitor the DBCP levels at Well #2 to ensure that the MCL is not exceeded in any given year. DHEC and EPA do not require annual testing for DBCP as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

7.2 Water Quality of Second Sample (EDB)

The test results for Well #2 indicate that the EDB level for Well #2 is zero (none detected), less than the MCL (0.050 µg/L). However, due to the level of refinement involved in the analytical work to test water samples for EDB, the possibility exists that the samples taken could have EDB levels below the "detectable limit" of 0.00596 µg/L. This would be a relatively small fraction of the MCL (approximately 11.9%) and is considered negligible for the purposes of this report due to the fact that no EDB was detected.

Therefore, with respect to EDB, Well #2 should be considered safe for drinking and other uses. The Town of McBee should closely monitor Well #2 to ensure that EDB does not become present in the groundwater in any given year. DHEC and EPA do not require annual testing for EDB as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

8.0 Analytical Results for Third Sample

On May 10th, 2010, analytical results were completed by GEL Laboratories for the Third Sample. The analytical results were for Well #1 only, organic chemicals only.

Well #1 was found to have the following results:

Table 4 –Test Results for Well #1 (DBCP, EDB)

Parameter	Result	MCL	% Uncertainty	Test Method
DBCP (1,2-Dibromo-3-chloropropane)	0.0224 µg/L	0.200 µg/L	N/A	1
EDB (1,2-Dibromoethane)	none detected	0.050 µg/L	N/A	2

Please refer to page 3 of 9 of the May 10th report from GEL Laboratories for the Well #1 results summary in its entirety.

8.1 Water Quality of Second Sample (DBCP)

The test results for Well #1 indicate that the DBCP level for Well #1 is 0.0224 µg/L, less than the MCL (0.200 µg/L). Therefore, with respect to DBCP, Well #1 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 11.2% of the MCL concludes that the Town of McBee should closely monitor the DBCP levels at Well #1 to ensure that the MCL is not exceeded in any given year. DHEC and EPA do not require annual testing for DBCP as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

8.2 Water Quality of Third Sample (EDB)

The test results for Well #1 indicate that the EDB level for Well #1 is zero (none detected), less than the MCL (0.050 µg/L). However, due to the level of refinement involved in the analytical work to test water samples for EDB, the possibility exists that the samples taken could have EDB levels below the "detectable limit" of 0.00627 µg/L. This would be a relatively small fraction of the MCL (approximately 12.5%) and is considered negligible for the purposes of this report due to the fact that no EDB was detected.

Therefore, with respect to EDB, Well #1 should be considered safe for drinking and other uses. The Town of McBee should closely monitor Well #1 to ensure that EDB does not become present in the groundwater in any given year. DHEC and EPA do not require annual testing for EDB as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

9.0 Summary of Water Quality Tests

Each of the two existing wells have been tested and found to contain zero to moderate levels of the three contaminants examined in this analysis. All three parameters of interest, if detected, were below the MCL for each well. The following table summarizes the results obtained from well samples taken between from March 25th to April 29th 2010:

Table 5 – Summary of Water Sample Results

Parameter	Well #1	Well #2
RADIUM		
Test Results	3.07	1.04
MCL	5.00	5.00
Is Sample OK?	YES	YES
%MCL	61%	21%
DBCP		
Test Results	0.0224	0.0189
MCL	0.200	0.200
Is Sample OK?	YES	YES
%MCL	11%	9.5%
EDB		
Test Results	ND	ND
MCL	0.050	0.050
Is Sample OK?	YES	YES
%MCL	0%	0%

10.0 DHEC Review of McBee's Water System Operations

On August 18th, 2010, the Town of McBee met with the regional staff of DHEC and M&M. in attendance for DHEC were Sean Clark, Paula Brown, and Mark Noble. In attendance for M&M were Brian Sexton and Joe McGougan. McBee's mayor, John Campolong, and water committee member Kemp McLeod, led the discussion regarding McBee's questions and concerns for resuming water system operations in the immediate future. In addition, DHEC viewed a copy of the PER prepared by M&M over the past several months and realized the amount of effort that has been put into the project to date.

After a brief description of the level of analysis performed to date and the existing groundwater quality in the area, DHEC outlined their requirements for McBee to resume operation of the Town's wells and distribution system. The following summary describes DHEC's requirements and McBee's roadmap to resume operational control of the Town's water system:

- DHEC will review the Town of McBee's request for operating permits strictly on a technical, financial, and managerial basis.

- McBee must be able to secure the services of a qualified ORC with all applicable certifications for a groundwater-supplied treatment system and all related distribution appurtenances (i.e. distribution, cross connections, etc.).
- McBee must be able to mitigate risks to groundwater quality concerns, particularly Well #1's future vulnerability for radium levels to increase above the MCL.
- Essentially, the Town must be able to have a secondary supply well that is capable of producing potable water that can be blended with Well #1 in the event that radium levels increase over time.
- Currently, Well #2 is capable of providing potable water in this fashion. However, Well #2 would have to be piped to Well #1 for blending and centralized treatment. Also, the capacity of Well #2 is too low to serve the long-term needs as a secondary supply well.
- The new irrigation well that is proposed for construction near the proposed recreation fields could serve as New Well #3. Similar to Well #2, this new well would have to be piped to Well #1 for blending and centralized treatment.
- Alternatives for radium disposal must be discussed and estimated costs included in this report.

11.0 Radium Reduction/Removal in Drinking Water

At this time, McBee does not exceed the MCL for radium. Although the levels of radium in Well #1 exceed 3.0 pCi, this could be a short term increase or an indication of long-term trends toward increasing radium levels that have been experienced in the region. Regardless, M&M does not anticipate that McBee will need to install radium removal measures in the foreseeable future. For discussion purposes, radium treatment options, and disposal requirements are described in this report per DHEC's request and future considerations.

Quality, operation and maintenance of equipment, dependability, and economy are the important factors to consider when dealing with unacceptable levels of radium. The list of potential solutions includes a new water source, blending water from more than one source, or removing radium by treatment. The first two are preferable options since they are less expensive and avoid waste disposal problems. Systems unable to employ these non-treatment measures must choose one of several treatment options. The available methods for removal of radium and the disposal of solid/liquid byproducts are outlined in the following sections.

11.1 Radium Treatment Options

11.1.1 Greensand Filtration

Greensand (or other manganese dioxide) media filters are typically used for the removal of manganese and iron, but are also capable of removing moderate levels of radium. Since the development of manganese greensand, thousands of systems large and small using this media have been installed throughout the United States and worldwide. Greensand has great flexibility as an oxidizing filter media. It has been incorporated into numerous industry and municipal applications at point-of-entry iron filters and has established itself as the one of the most popular technologies for iron and manganese removal from municipal and industrial well waters, as well as other waters containing these substances.

Radium removal occurs as a result of adsorption to the manganese dioxide (hydrous) present in the filter; therefore, no oxidation occurs. Since manganese dioxide is a characteristic product of permanganate oxidation, it is important to use permanganate (as opposed to chlorine) to activate the greensand filter. Both hardness and pH are known to affect greensand performance. Iron (Fe_2+), manganese (Mn_2+), and other polyvalent cations are believed to compete for sorption sites on the MnO_2 in the filter and limit radium removal. The adsorption of radium by MnO_2 is also known to be a function of pH; a general improvement is observed as the pH increases from approximately 5 to 9. Generally, radium is removed from groundwater as a solid when the greensand filters are backwashed. These solids must be disposed in accordance with federal, state and local laws.

11.1.2 Co-precipitation Systems

Alternative technologies can also be installed as co-precipitation systems. These systems provide the additional benefit of iron and manganese removal. However, systems employing co-precipitation through Hydrous Manganese Oxide (HMO) require regular backwashing, resulting in backwash water with the radium discharge. In many municipal applications, liquid wastes from radium removal are allowed to be discharged to a sanitary sewer, provided the levels are less than federal, state and local limits (5.00 pCi). If the brine exceeds these levels, radium must be removed to compliant levels before the brine can be discharged to a sanitary sewer. This can be accomplished with the addition of an adsorption system to remove the radium from the brine, which may then be reused or discharged.

11.1.3 Ion Exchange

For individual homeowners, one fairly inexpensive treatment method is ion exchange which is used in home water softeners. This process removes approximately 90% of radium. The ion exchange process for radium removal is similar to the process for hardness removal. In this process, sodium (or hydrogen) ions are exchanged for radium. Once the ion exchange resins are exhausted, the resins need to be regenerated with common salt or a dilute acid. In some cases, however, the ion exchange process can cause the undesired effect of adding sodium to the treated water, a factor those on low sodium diets also should consider before installing a softener. The exchange capacity of the resin and the amount of regeneration liquid required are the factors to be considered in the ion exchange process. The regenerant solution and resin wash-water contain dissolved contaminants that require disposal in a safe manner.

11.1.4 Lime-Soda Ash Softening

Another possible treatment method is lime-soda ash softening. Laboratory studies have demonstrated an average 80% removal. In this process, lime and soda are added to water and combine chemically with radium to convert it into insoluble compound. This insoluble compound precipitates as a sludge, which can be removed from water by gravity settling and disposed of in a safe manner.

11.1.5 Reverse Osmosis

Reverse Osmosis (RO) can remove about 90% of radium. With RO, the contaminated water is forced through a semi-permeable membrane that will not allow dissolved substances to pass through. Radium is removed from water by passing it through the membrane. Pumping pressure is an important design consideration of this process. The reject solution from this process contains high levels of dissolved solids and needs special disposal considerations.

11.2 Radium Disposal Requirements

As described above, all treatment processes produce liquid and/or solid wastes (sludge) containing radium in varied concentrations. These treatment byproducts must be disposed of properly and safely.

11.2.1 Solid Waste Disposal

The list of viable sludge disposal methods available to McBee includes land application and sanitary landfill disposal. Land application of sludge on farmlands for soil neutralization is an efficient method of disposal that is also a way to utilize the benefit of nutrients present in the sludge. This practice will require ongoing monitoring to ensure that conditioned soils do not exceed safe "inert" limits of radium 0.40 pCi/g in total concentration. Long-term requirements that are likely from this disposal method include the blending of high and low concentration sludge, modifying application rates and frequency, alternating fields of application and limiting the number of applications on a specific field. In addition, producers can dispose of their sludge in a local landfill provided it meets the landfill's waste acceptance criteria. Each of these alternatives is more cost effective than disposing of the sludge in a licensed low-level radioactive waste disposal facility, which will not be necessary unless the sludge waste exceeds 50-200 pCi/g in total concentration.

11.2.2 Liquid Waste Disposal

Liquid disposal methods are limited to discharge to an existing sanitary sewer collection system for dilution, treatment and disposal. The ultimate disposal for liquid wastes can be land application or an existing NPDES surface water discharge. If the Town of McBee constructs a public sewer system within the Town, the liquid waste stream could be discharged into the new collection system, assuming the bulk treatment provider approves of this practice and can handle the increased concentration of radium waste in its facilities.

For this analysis, it is assumed that McBee would secure a contract for discharge of liquid waste to one of the existing sanitary sewer systems in the region. The preferred option would be to discharge to the existing sanitary sewer pump station behind McBee High School. This pump station transfers domestic wastewater to the Town of Hartsville through a forcemain owned by Alligator Rural Water. Other alternatives include the discharge of liquid waste into the proposed regional sewer system recently approved by DHEC for land application near McBee, or pump directly to Hartsville via newly installed forcemain owned by McBee.

11.2.3 Licensed Disposal – Low Level Radioactive Waste

If radium waste (liquid or sludge) exceeds 50 pCi, advanced measures are necessary to adequately and safely dispose of the treatment byproducts. It is not anticipated that groundwater in McBee will require this level of treatment at any time during the service life of the water system. However, it is important to note that the local nuclear power facility, H.B. Robinson Nuclear Plant, is located less than 10 miles from McBee and may be able to offer an economical disposal option that is not typically available to systems of this scale.

12.0 Immediate Water System Needs

12.1 Option 1 - Well #1 Startup + Blending with New Well #3

In order for McBee to achieve its ultimate goal of resuming control of the O&M and supply of the Town's water system, it is recommended that Well #1 be placed back into service. Option 1 considers the startup of existing Well #1 combined with the construction of New Well #3 to achieve blending from these two sources.

Because Well #1 has tested positive for radium and DBCP, there are several considerations that McBee must weigh before attempting to resume water production at Well #1:

- Public health and perception of the presence of known contaminant levels in the ground water supply
- Ability for ARW to supply "cleaner" water supplied from other wells in the surrounding area
- Future vulnerability for radium levels in Well #1 to increase above the MCL
- Future vulnerability for DBCP levels in Well #1 to increase above the MCL
- Permitting and permanent filtration requirements for DHEC approval
- Construction and engineering costs to place this well back into service

At this time, McBee does not exceed the MCL for radium at Well #1. Although the levels of radium in Well #1 exceed 3.0 pCi, this could be a short term increase or an indication of long-term trends toward increasing radium levels that have been experienced in the region. Regardless, M&M does not anticipate that McBee will need to install radium removal measures in the foreseeable future.

12.1.1 New Well #3

As a secondary water supply well, it is recommended that McBee pursue construction of New Well #3. It is recommended that New Well #3 be piped to the Well #1 site for blending in a common pipe header. Therefore, all water entering the distribution system would achieve some level of contaminant reduction, dependent upon the water quality of Well #1 and the additional well. M&M recommends the construction of New Well #3 near the recreation fields located in southeastern McBee. New Well #3 would serve the dual purpose of irrigation for the proposed recreational fields and McBee's secondary (redundant) supply source in the event that ARW terminates the supply agreement with the Town altogether.

It is highly recommended that New Well #3 be pumped back to Town Hall and connected into Well #1 treatment facilities (approximately 4,000 linear feet). Additionally, it is highly recommended that a permanent emergency generator be placed at this site. It is possible that after construction is complete on this new well, subsequent testing could be positive for radium or DBCP/EDB. Therefore, McBee must weigh the same considerations before construction of a new water production well.

The recommended equipment could be installed at the existing well site with few modifications other than the installation of the raw water main, onsite piping, and minor telemetry/control modifications. The proposed construction, design, and inspection costs for Option 1 are $296,340 as summarized in Appendix 2.

12.2 Option 2 - Well #1 Startup + Blending with New Well #2

Option 2 considers the startup of existing Well #1 combined with the rehabilitation of Well #2 to achieve blending from these two sources. In the event that construction of New Well #3 yielded a well that was not productive or had serious water quality problems, Well #2 could be utilized as the secondary supply to McBee.

However, Well #2 must be rehabilitated and placed back into service in order to serve as McBee's secondary (redundant) supply source in the event that ARW terminates the supply agreement with the Town altogether. For the long-term use of Well #2 as a redundant supply, McBee should consider the following measures to treat groundwater produced at Well #2:

- Make upgrades to electrical wiring and telemetry
- Construct permanent generator on site
- Do not construct treatment facilities at Well #2
- Construct a 6" raw (untreated) water main back to Town Hall and pipe into Well #1 treatment facilities (approximately 11,000 linear feet)

Consolidation of the treatment facilities at Well #1 makes sense from an engineering, security, and financial perspective. The proposed construction, design, and inspection costs for Option 2 are $346,250 as summarized in Appendix 2.

13.0 Water Rates and Future Treatment Costs

The existing financial analysis has been revised to include the potential costs associated with the treatment and disposal of MCL byproducts. It is estimated that McBee has a customer base of 440 residential and commercial connections. Average annual water use is estimated at 75.5 million gallons, or 6.3 million gallons per month. This includes all water consumption, as well as flushing and system losses. Currently, the average residential customer pays $35.00 per month for 5,000 gallons of water. The ARW water rate structure is a $20 flat rate (includes the first 2,000 gallons) plus $5.00 per 1,000 gallons thereafter.

13.1 Scenario 1 – Initial Water Quality Does Not Exceed Radium or VOC MCLs

In Scenario 1 of the rate study, it is assumed that groundwater quality will not exceed the MCL for radium or VOCs. This is for comparison reasons and the relatively low probability that groundwater quality will exceed MCLs for these criteria in the immediate future. Regardless of the groundwater quality, the proposed Well #3 and improvements to Well #1 have been included in this scenario by including the new annual debt service of $27,017 ($600,000 @ 3.25% for 40 years).

In Scenario 1, it is significantly less expensive for McBee to provide its own water treatment than to remain with ARW. Therefore, Oliver Environmental, Inc. represents a cost savings of $4.56 per month per customer versus ARW. It should be noted that both alternatives provide for a budget surplus, but Oliver Environmental, Inc. allows McBee to be more "in the black" for Scenario 1.

13.2 Scenario 2 – Annual Costs to Remove Radium and VOCs

In the event that water quality becomes an issue at Well #1, M&M has reviewed the best available technology for treating the groundwater at the current contaminant levels and potential future levels (exceeding the MCL for each contaminant). The best available technology for the treatment of radium would be the use of greensand filters. Greensand is a special media that is placed in a dedicated pressure filter that is constructed at the well site and piped into the regular/permanent treatment process. Greensand would be extremely effective to significantly reduce or remove radium from the groundwater at Well #1.

The best available technology that would be used for the removal of DBCP (and EDB) would be pressure filtration using activated carbon. Similar to the greensand filtration process, carbon media is placed in a dedicated pressure filter that is constructed at the well site and piped into the regular/permanent treatment process. Activated carbon would be extremely effective to significantly reduce or remove all traces of DBCP (and EDB) organic compounds from the groundwater at Well #1. The activated carbon and the greensand would have to be regenerated over time and therefore would increase the operational costs for water production at Well #1.

13.2.1 Up Front Equipment Costs

The recommended equipment could be installed at the existing well site with few modifications other than the installation of the equipment, onsite piping, and minor telemetry/control modifications. **The proposed construction, design, and inspection costs to implement the potential future treatment enhancements at Well #1 are $296,250 as summarized in Appendix 2.**

13.2.2 Annual Treatment and Byproduct Disposal Costs

In Scenario 2 of the rate study, it is assumed that groundwater will exceed the MCL for radium and VOCs. This is the worst case scenario for McBee and requires the disposal of treatment byproducts, particularly wastewater from the radium removal process and GAC replacement for VOC removal.

This analysis assumes the most expensive means of disposal. For radium byproducts, filter backwash for radium will generate up to 350,000 gallons annually that must be pumped and hauled to a nearby sanitary sewer collection system where it can be discharged to achieve dilution, treatment, and disposal. Using a haul load of 4,500 gallons and a roundtrip of up to 100 miles, this translates to an annual cost of approximately $15,000. For VOC byproducts, GAC filter media can be replaced at estimated intervals of every five years. It is estimated that the quantity of media for this application will cost $25,000 every five years, or an annual cost of approximately $5,000. Therefore, the total annual cost to treat and dispose of treatment byproducts for radium and VOCs is estimated at $20,000.

In Scenario 2, it is less expensive for McBee to provide its own water treatment than to remain with ARW. Therefore, Oliver Environmental, Inc. represents a cost savings of $0.78 per month per customer versus ARW. Similar to Scenario 1, both alternatives provide for a budget surplus, but Oliver Environmental, Inc. allows McBee to be more "in the black" for Scenario 2.

14.0 Blended Water Quality

For Option 1, Well #1 would be blended with water from the New Well #3 which has not been constructed. For this analysis, it is assumed that New Well #3 will have similar water quality to existing Well #1 and Well #2. Therefore, the radium and DBCP levels for New Well #3 are estimated to be the average of Well #1 and Well #2. Additionally, it is assumed that New Well #3 will have a pumping capacity equal to Well #1 (600 gpm max pumping rate for 12 hours). For Option 2, Well #1 would be blended with water from Well #2. The table below indicates that the groundwater quality is virtually identical for Option 1 and Option 2. The key assumption is the groundwater quality at New Well #3 which must be verified after construction.

Table 6 – Estimated Blended Water Quality

OPTION 1			
Parameter	Well #1	New Well #3	Blended Water Quality
Pumping Rate (gpm)	600	600	1,200
RADIUM	3.07	2.06	2.56
DBCP	0.0224	0.0207	0.0216
EDB	ND	ND	0
OPTION 2			
Parameter	Well #1	Well #2	Blended Water Quality
Pumping Rate (gpm)	600	200	800
RADIUM	3.07	1.04	2.56
DBCP	0.0224	0.0189	0.0215
EDB	ND	ND	0

00256

15.0 Recommendations & Conclusions

Once DHEC has reviewed all materials and found that the Town of McBee is able to maintain satisfactory compliance with regard to a technical, financial, and managerial basis, McBee should startup and utilize Well #1 as a primary water source. For the secondary water supply well, it is recommended that McBee pursue Option 1, construction of New Well #3 and blending groundwater from these two wells at the existing Well #1 site.

It is highly recommended that New Well #3 be pumped back to Town Hall and connected into Well #1 treatment facilities (approximately 4,000 linear feet). Additionally, it is highly recommended that a permanent emergency generator be placed at the New Well #3 site. It is possible that after construction is complete on this new well, subsequent testing could be positive for radium or DBCP/EDB. Therefore, blending of groundwater from Well #1 and New Well #3 should be incorporated into the system design for immediate use upon start-up.

The recommended equipment could be installed at the existing Well #1 site with few modifications other than the installation of the raw water main, onsite piping, and minor telemetry/control modifications. The proposed construction, design, and inspection costs for Option 1 are $296,340 as summarized in Appendix 2.

In the unlikely event that initial groundwater quality/quantity is unsatisfactory from New Well #3, Well #2 should be rehabilitated, placed back into service as a secondary supply well, and connected to Well #1 for blending and treatment at a single location. Additionally, in the event that future water quality tests indicate appreciable fluctuations in the levels of radium in Well #1, #2, or #3, McBee should take the following actions:

1) Begin consideration of the need to design and construct the water treatment enhancements at Well #1 as described in **Section 13.0, Water Rates and Future Treatment Costs.**
2) Begin discussions with sewer treatment providers to accept the discharge of liquid process waste to existing sanitary sewers.

Because McBee has expressed a high interest in pursuing public sanitary sewer in Town, the discharge of liquid process waste could be transferred to the McBee sewer collection system in the future.

APPENDIX 1

Well Test Data

- April 23rd, 2010: Well #1 and Well #2
- May 10th, 2010: Well #1 Only
- June 9th , 2010: Well #2 Only

GEL Laboratories LLC

a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.556.8171 F 843.766.1178

www.gel.com

April 23, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 250074

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on March 26, 2010. This original data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 250074 GEL Work Order: 250074

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Minimum Detection Level Required Detection Limit

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: April 23, 2010

Client Sample ID: Special Sample@ Wellhead #1A,1B,1C
Sample ID: 250074001
Matrix: Ground Water
Collect Date: 25-MAR-10 10:30
Receive Date: 26-MAR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	Uncertainty	DL	RL	Units	DF	AnalystDate	Time	Batch	Method
Rad Gas Flow Proportional Counting											
GFPC, Ra228, Liquid "As Received"											
Radium-228	U	ND	+/-1.18	1.81	3.00	pCi/L		JXC5	04/06/10	1120	970500 1
GFPC, Total Alpha Radium, Liquid "As Received"											
Total Alpha Radium		3.07	+/-1.00	0.896	1.00	pCi/L		JXC5	03/31/10	1023	970161 2
Rad Radium-226											
Lucas Cell, Ra226, liquid "As Received"											
Radium-226		1.95	+/-0.425	0.306	1.00	pCi/L		KSD1	04/14/10	1435	972456 3

The following Analytical Methods were performed < 5 , samples O.K.

Method	Description	Analyst Comments
1	EPA 904.0/SW846 9320 Modified	
2	EPA 900.1 Modified	
3	EPA 903.1 Modified	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Barium-133 Tracer	GFPC, Ra228, Liquid "As Received"			77.4	(15%-125%)
Barium Carrier	GFPC, Total Alpha Radium, Liquid "As Received"			87.1	(25%-125%)

Radium 226 + Radium 228 (combined MCL) = 5pCi/L

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: April 23, 2010

Client Sample ID: Special Sample@ Wellhead #2A,2B,2C
Sample ID: 250074003
Matrix: Ground Water
Collect Date: 25-MAR-10 11:00
Receive Date: 26-MAR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	Uncertainty	DL	RL	Units	DF	Analyst	Date	Time	Batch	Method
Rad Gas Flow Proportional Counting												
GFPC, Ra228, Liquid "As Received"												
Radium-228	U	ND	+/-1.03	1.63	3.00	pCi/L		JXC5	04/06/10	1120	970500	1
GFPC, Total Alpha Radium, Liquid "As Received"												
Total Alpha Radium		1.04	+/-0.644	0.781	1.00	pCi/L		JXC5	03/31/10	1023	970161	2
Rad Radium-226												
Lucas Cell, Ra226, liquid "As Received"												
Radium-226		0.767	+/-0.256	0.193	1.00	pCi/L		KSD1	04/14/10	1450	972456	3

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 904.0/SW846 9320 Modified	
2	EPA 900.1 Modified	
3	EPA 903.1 Modified	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Barium-133 Tracer	GFPC, Ra228, Liquid "As Received"			89.3	(15%-125%)
Barium Carrier	GFPC, Total Alpha Radium, Liquid "As Received"			80.3	(25%-125%)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: April 23, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 250074

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
Rad Gas Flow										
Batch 970161										
QC1202083174 250074001 DUP										
Total Alpha Radium		3.07		3.83	pCi/L	22.1		(0% - 100%)	JXC5	03/31/10 10:13
	Uncertainty	+/-1.00		+/-1.05						
QC1202083176 LCS										
Total Alpha Radium	362			392	pCi/L		108	(75%-125%)		03/31/10 09:01
	Uncertainty			+/-9.60						
QC1202083173 MB										
Total Alpha Radium			U	0.152	pCi/L					03/31/10 10:13
	Uncertainty			+/-0.264						
QC1202083175 250074001 MS										
Total Alpha Radium	1090	3.07		1140	pCi/L		105	(75%-125%)		03/31/10 09:01
	Uncertainty	+/-1.00		+/-29.0						
Batch 970500										
QC1202084049 249905001 DUP										
Radium-228		3.20		3.04	pCi/L	5.08		(0% - 100%)	JXC5	04/06/10 11:19
	Uncertainty	+/-1.25		+/-1.27						
QC1202084051 LCS										
Radium-228	10.7			10.7	pCi/L		99.4	(75%-125%)		04/06/10 11:19
	Uncertainty			+/-1.31						
QC1202084048 MB										
Radium-228			U	0.192	pCi/L					04/06/10 11:24
	Uncertainty			+/-0.308						
QC1202084050 249905001 MS										
Radium-228	25.1	3.20		27.2	pCi/L		95.4	(75%-125%)		04/06/10 11:19
	Uncertainty	+/-1.25		+/-3.04						
Rad Ra-226										
Batch 972456										
QC1202088828 250083002 DUP										
Radium-226		0.511	U	0.173	pCi/L	98.8		(0% - 100%)	KSD1	04/14/10 17:05
	Uncertainty	+/-0.243		+/-0.146						
QC1202088831 LCS										
Radium-226	24.2			22.9	pCi/L		94.6	(75%-125%)		04/14/10 17:40
	Uncertainty			+/-1.36						
QC1202088827 MB										
Radium-226			U	0.126	pCi/L					04/14/10 17:05
	Uncertainty			+/-0.128						
QC1202088829 250083002 MS										
Radium-226	24.2	0.511		18.7	pCi/L		75.3	(75%-125%)		04/14/10 17:05
	Uncertainty	+/-0.243		+/-1.17						
QC1202088830 250083002 MSD										
Radium-226	121	0.511		117	pCi/L	145*	96.1	(0%-20%)		04/14/10 17:05
	Uncertainty	+/-0.243		+/-7.03						

QC Summary

Workorder: 250074

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time

Notes:
The Qualifiers in this report are defined as follows:

**	Analyte is a surrogate compound
<	Result is less than value reported
>	Result is greater than value reported
A	The TIC is a suspected aldol-condensation product
B	For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
BD	Results are either below the MDC or tracer recovery is low
C	Analyte has been confirmed by GC/MS analysis
D	Results are reported from a diluted aliquot of the sample
F	Estimated Value
H	Analytical holding time was exceeded
J	Value is estimated
M	M if above MDC and less than LLD
M	Matrix Related Failure
N/A	RPD or %Recovery limits do not apply.
ND	Analyte concentration is not detected above the detection limit
NJ	Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
R	Sample results are rejected
U	Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.
UI	Gamma Spectroscopy--Uncertain identification
UJ	Gamma Spectroscopy--Uncertain identification
X	Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
Y	QC Samples were not spiked with this compound
^	RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.
h	Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

Page: 1 of 2
Project #:
GEL Quote #: GELP10-0258
COC Number (1):
PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number: 250074

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, PA. Phone #: 843488-0124
Project/Site Name: Town of McBee Well #1 Fax #: 843 488-0129
Address: 1300 Second Ave. Suite 211 Conway, SC 29526
Collected by: Brian Sexton, PE Send Results To: Brian Sexton, PE

Sample Analysis Requested (5) (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code (2)	Field Filtered (3)	Sample Matrix (4)	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Wellhead #1 A	3-25-10	10:30	N	N	GW	N	N	1		Note: extra sample is required for sample specific QC
1B	3-25-10							1		
1C	3-25-10							1		
1D	3-25-10							1		
1E	3-25-10							1		
1F	3-25-10	10:35						1		

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: Yes / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Sample Collection Time Zone: (Eastern) Central Mountain Pacific Other

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards
A sample is in 2L bottle. B+C are in 1L bottles. D,E,F are in 40mL vials.

Chain of Custody Signatures

	Relinquished By (Signed)	Date	Time	Received by (signed)	Date	Time
1		3-25-2010	3:00pm		3-26-10	1030
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS overnight Date Shipped: 3-25-2010
Airbill #:
Airbill #:

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: C

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, ED = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

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00266

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/ARCOC/Work Order: 250074
Received By: Greg Tyler	Date Received: 3-26-10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		X	Maximum Counts Observed*: 40 cpm
Classified Radioactive II or III by RSO?		X	
COC/Samples marked containing PCBs?		X	
Shipped as a DOT Hazardous?		X	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		X	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	X			Circle Applicable: seals broken / damaged container / leaking container / other (describe)
2	Samples requiring cold preservation within 0 ≤ 6 deg. C?		X		Preservation Method: ice bags / blue ice / dry ice / (none) / other (describe) 19°C
3	Chain of custody documents included with shipment?	X			
4	Sample containers intact and sealed?	X			Circle Applicable: seals broken / damaged container / leaking container / other (describe)
5	Samples requiring chemical preservation at proper pH?	X			Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?			X	Sample ID's and containers affected: Well #1E and Well #1F affected.
7	Are Encore containers present?			X	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	X			Id's and tests affected:
9	Sample ID's on COC match ID's on bottles?	X			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	X			Sample ID's affected:
11	Number of containers received match number indicated on COC?	X			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	X			

Comments:

UPS #
1Z 385 ER8 03 9174 2434

PM (or PMA) review: Initials MS Date 3/31/10

Page: 2 of 2
Project #:
GEL Quote #: GELP10-0258
COC Number [1]:
PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number:

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, P.A. Phone #: 843488-0124
Project/Site Name: Town of McBee Well #2 Fax #: 843 488-0129
Address: 1300 Second Ave. Suite 211 Conway, SC 29526
Collected by: Brian Sexton, PE Send Results To: Brian Sexton, PE

Page 10 of 12

Sample Analysis Requested [5] (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code [3]	Field Filtered [2]	Sample Matrix [4]	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Wellhead #2A	3-25-10	11:00	N	N	GW	N	N	1		Note: extra sample is required for sample specific QC
" 2B	3-25-10							1		
" 2C	3-25-10							1		
" 2D	3-25-10							1		
" 2E	3-25-10							1		
" 2F	3-25-10	11:05						1		

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: (Yes) / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards
A sample is in 2L bottle. B+C are in 1L bottles. D, E, F are in 40mL vials.

Sample Collection Time Zone: (Eastern) Central Mountain Pacific Other

Chain of Custody Signatures

	Relinquished By (Signed)	Date	Time	Received by (signed)	Date	Time
1	Brian Sexton	3-25-10	3:00pm		3-26-10	1030
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS overnight Date Shipped: 3-25-2010
Airbill #:
Airbill #:

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: C

00268

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/ARCOC/Work Order: 250074
Received By: Greg Tyler	Date Received: 3-26-10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		X	Maximum Counts Observed*: 40 cpm
Classified Radioactive II or III by RSO?		X	
COC/Samples marked containing PCBs?		X	
Shipped as a DOT Hazardous?		X	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		X	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	X			Circle Applicable: seals broken / damaged container / leaking container / other (describe)
2	Samples requiring cold preservation within 0 ≤ 6 deg. C?		X		Preservation Method: ice bags / blue ice / dry ice / (none) / other (describe) 19°C
3	Chain of custody documents included with shipment?	X			
4	Sample containers intact and sealed?	X			Circle Applicable: seals broken / damaged container / leaking container / other (describe)
5	Samples requiring chemical preservation at proper pH?	X			Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?			X	Sample ID's and containers affected: Well # 2D affected.
7	Are Encore containers present?			X	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	X			Id's and tests affected:
9	Sample ID's on COC match ID's on bottles?	X			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	X			Sample ID's affected:
11	Number of containers received match number indicated on COC?	X			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	X			

Comments:

UPS #
1Z 385 ER8 03 9174 2434

PM (or PMA) review: Initials MB Date 3/31/10

List of current GEL Certifications as of 23 April 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California - NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida - NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois - NELAP	200029
Indiana	C-SC-01
Kansas - NELAP	E-10332
Kentucky	90129
Louisiana - NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey - NELAP	SC002
New Mexico	FL NELAP E87156
New York - NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania - NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas - NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah - NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

GEL Laboratories LLC

a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.556.8171 F 843.766.1178

www.gel.com

May 10, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 252016

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on April 30, 2010. This original data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 252016 GEL Work Order: 252016

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

J Value is estimated

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by Julie Robinson

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 – (843) 556-8171 – www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: May 10, 2010

Client Sample ID: Special Sample @ Well #1-2A,2B,2C
Sample ID: 252016001
Matrix: Ground Water
Collect Date: 29-APR-10 09:52
Receive Date: 30-APR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	DL	RL	Units	DF	AnalystDate	Time	Batch	Method
504.1/8011 Analysis of EDB/DBCP										
EDB, DBCP "As Received" — EDB										
1,2-Dibromoethane	U	ND (zero)	0.00627	0.0209	ug/L	1	TXK2 05/04/10	1417	980754	1
1,2-Dibromo-3-chloropropane		0.0224	0.00627	0.0209	ug/L	1	TXK2 05/04/10	1417	980754	2

DBCP

ug/L = parts per billion

The following Prep Methods were performed

Method	Description	Analyst	Date	Time	Prep Batch
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/04/10	1233	980752

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 504.1	
2	EPA 504.1	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Bromofluorobenzene	EDB, DBCP "As Received"	4.48 ug/L	3.73	120	(76%-124%)

MCL for DBCP = 0.20 ppb
MCL for EDB = 0.05 ppb

Well #1 Results Summary

EDB result indicates that zero(0) is present. O.K. ✓

DBCP result = 0.0224 which is < MCL

DBCP is present in Well #1 : 0.0224 < 0.200 O.K. ✓
(below MCL)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: May 10, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 252016

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
504.1/8011 Analysis of EDB/DBCP										
Batch 980754										
QC1202108851 LCS										
1,2-Dibromo-3-chloropropane	0.200			0.218	ug/L		109	(70%-130%)	TXK2	05/04/10 13:40
1,2-Dibromoethane	0.200			0.224	ug/L		112	(70%-130%)		
**Bromofluorobenzene	3.57			4.35	ug/L		122	(76%-124%)		
QC1202108852 LCSD										
1,2-Dibromo-3-chloropropane	0.200			0.225	ug/L	3.26	113	(0%-20%)		05/04/10 13:52
1,2-Dibromoethane	0.200			0.228	ug/L	1.58	114	(0%-20%)		
**Bromofluorobenzene	3.57			4.40	ug/L		123	(76%-124%)		
QC1202108850 MB										
1,2-Dibromo-3-chloropropane			U	ND	ug/L					05/04/10 13:27
1,2-Dibromoethane			U	ND	ug/L					
**Bromofluorobenzene	3.57			4.26	ug/L		119	(76%-124%)		

Notes:
The Qualifiers in this report are defined as follows:

- ** Analyte is a surrogate compound
- < Result is less than value reported
- > Result is greater than value reported
- A The TIC is a suspected aldol-condensation product
- B For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
- C Analyte has been confirmed by GC/MS analysis
- D Results are reported from a diluted aliquot of the sample
- E Organics--Concentration of the target analyte exceeds the instrument calibration range
- F Estimated Value
- H Analytical holding time was exceeded
- J Value is estimated
- M Matrix Related Failure
- N Organics--Presumptive evidence based on mass spectral library search to make a tentative identification of the analyte (TIC). Quantitation is based on nearest internal standard response factor
- N/A RPD or %Recovery limits do not apply.
- ND Analyte concentration is not detected above the detection limit
- NJ Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
- P Organics--The concentrations between the primary and confirmation columns/detectors is >40% different. For HPLC, difference is also <70%
- R Sample results are rejected

QC Summary

Workorder: 252016

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date	Time

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

X Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier

Y QC Samples were not spiked with this compound

^ RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.

h Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

Page: ___ of ___
Project #: GELP10-0258
GEL Quote #:
COC Number (1):
PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number: 252016

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, P.A. Phone #: 8434880124
Project/Site Name: Town of McBee Well #1 Fax #: 843 4880129
Address: 1300 Second Ave; Suite 211; Conway, SC 29526
Collected by: Brian Sexton, P.E. Send Results To: Brian Sexton P.E.

Page 1 of 6

Sample Analysis Requested (5) (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code (1)	Field Filtered (2)	Sample Matrix (4)	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Well #1 -2A	4-29-2010	9:50A	N	N	GW	N	N	1		Note: extra sample is required for sample specific QC
" -2B	4-29-2010	9:51A	N	N	GW	N	N	1		
" -2C	4-29-2010	9:52A	N	N	GW	N	N	1		

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: Yes / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards

Sample Collection Time Zone: Eastern Central Mountain Pacific Other ____

Chain of Custody Signatures

	Relinquished By (signed)	Date	Time	Received by (signed)	Date	Time
1	Brian Sexton	4-29-2010	1:00PM	B Hafer	4/30/10	10:30
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS Overnight Date Shipped: 4-29-2010
Airbill #:
Airbill #:

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, ED = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B = 3, 6010B/7470A = 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: C

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

00277

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: Marziano & McGowan, PA (MMG)	SDG/AR/COC/Work Order: 252016
Received By: BWhite	Date Received: 4/30/10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		✓	Maximum Counts Observed*: Cpm 20
Classified Radioactive II or III by RSO?		✓	
COC/Samples marked containing PCBs?		✓	
Shipped as a DOT Hazardous?		✓	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		✓	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
2	Samples requiring cold preservation within (0 ≤ 6 deg. C)?	✓			Preservation Method: (Ice bags) Blue ice Dry ice None Other (describe) 1D
2a	Daily check performed and passed on IR temperature gun?	✓			Temperature Device Serial #: 510500104 Secondary Temperature Device Serial # (If Applicable):
3	Chain of custody documents included with shipment?	✓			
4	Sample containers intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
5	Samples requiring chemical preservation at proper pH?		✓		Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?	✓			Sample ID's and containers affected:
7	Are Encore containers present?			✓	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	✓			ID's and tests affected:
9	Sample ID's on COC match ID's on bottles?	✓			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	✓			Sample ID's affected:
11	Number of containers received match number indicated on COC?	✓			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	✓			
13	Carrier and tracking number.	✓			Circle Applicable: FedEx Air FedEx Ground (UPS) Field Services Courier Other 1Z385ER80392806597

Comments (Use Continuation Form if needed):

PM (or PMA) review: Initials JP Date 4/30/10 Page 1 of 1

List of current GEL Certifications as of 10 May 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California – NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida – NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois – NELAP	200029
Indiana	C-SC-01
Kansas – NELAP	E-10332
Kentucky	90129
Louisiana – NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey – NELAP	SC002
New Mexico	FL NELAP E87156
New York – NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania – NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas – NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah – NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

GEL Laboratories LLC

a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.556.8171 F 843.766.1178

www.gel.com

June 09, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 251657

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on April 23, 2010. This revised data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 251657 GEL Work Order: 251657

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

J Value is estimated

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by Julie Robinson

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: June 9, 2010

Client Sample ID: Special Sample @ Well #2A, 2B, 2C
Sample ID: 251657001
Matrix: Ground Water
Collect Date: 22-APR-10 10:17
Receive Date: 23-APR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	DL	RL	Units	DF	AnalystDate	Time	Batch	Method
504.1/8011 Analysis of EDB/DBCP										
EDB, DBCP "As Received"										
1,2-Dibromo-3-chloropropane	J	0.0189	0.00596	0.0199	ug/L	1	TXK2 04/30/10	1344	979837	1
1,2-Dibromoethane	U	ND	0.00596	0.0199	ug/L	1				

The following Prep Methods were performed

Method	Description	Analyst	Date	Time	Prep Batch
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	04/30/10	1200	979836
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/04/10	1233	980752
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/20/10	1300	986426

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 504.1	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Bromofluorobenzene	EDB, DBCP "As Received"	3.60 ug/L	3.55	101	(76%-124%)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: June 9, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 251657

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
504.1/8011 Analysis of EDB/DBCP										
Batch 979837										
QC1202106609 LCS										
1,2-Dibromo-3-chloropropane	0.200			0.192	ug/L		95.8	(70%-130%)	TXK2	04/30/10 13:19
1,2-Dibromoethane	0.200			0.196	ug/L		98	(70%-130%)		
**Bromofluorobenzene	3.57			3.64	ug/L		102	(76%-124%)		
QC1202106610 LCSD										
1,2-Dibromo-3-chloropropane	0.200			0.192	ug/L	0.0418	95.8	(0%-20%)		04/30/10 13:31
1,2-Dibromoethane	0.200			0.194	ug/L	0.881	97.2	(0%-20%)		
**Bromofluorobenzene	3.57			3.66	ug/L		102	(76%-124%)		
QC1202106607 MB										
1,2-Dibromo-3-chloropropane			U	ND	ug/L					04/30/10 13:06
1,2-Dibromoethane			U	ND	ug/L					
**Bromofluorobenzene	3.57			3.59	ug/L		100	(76%-124%)		

Notes:
The Qualifiers in this report are defined as follows:

- ** Analyte is a surrogate compound
- < Result is less than value reported
- > Result is greater than value reported
- A The TIC is a suspected aldol-condensation product
- B For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
- C Analyte has been confirmed by GC/MS analysis
- D Results are reported from a diluted aliquot of the sample
- E Organics--Concentration of the target analyte exceeds the instrument calibration range
- F Estimated Value
- H Analytical holding time was exceeded
- J Value is estimated
- M Matrix Related Failure
- N Organics--Presumptive evidence based on mass spectral library search to make a tentative identification of the analyte (TIC). Quantitation is based on nearest internal standard response factor
- N/A RPD or %Recovery limits do not apply.
- ND Analyte concentration is not detected above the detection limit
- NJ Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
- P Organics--The concentrations between the primary and confirmation columns/detectors is >40% different. For HPLC, difference is also <70%
- R Sample results are rejected

QC Summary

Workorder: 251657

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date	Time

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

X Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier

Y QC Samples were not spiked with this compound

^ RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.

h Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

GEL Chain of Custody and Analytical Request

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Page: ___ of ___
Project #:
GEL Quote #: GEL P10-0258
COC Number (1):
PO Number:

GEL Work Order Number: 251657

Client Name: Marziano + McGougan, PA Phone #: 8434880124
Project/Site Name: Town of McBee Well #2 Fax #: 8434880129
Address: 1300 Second Avenue Suite 211; Conway, SC 29526
Collected by: Brian Sexton, PE Send Results To: Brian Sexton P.E.

Page 1 of 9

Sample Analysis Requested (5) (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code (1)	Field Filtered (2)	Sample Matrix (4)	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments Note: extra sample is required for sample specific QC
Special Sample @Well #2-2A	4-22-10	10:15	N	N	GW	N	N	1		
" -2B	4-22-10	10:16	N	N	GW	N	N	1		
" -2C	4-22-10	10:17	N	N	GW	N	N	1		

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: Yes / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Remarks: *Are there any known hazards applicable to these samples? If so, please list the hazards*

Sample Collection Time Zone: Eastern Central Mountain Pacific Other ____

Chain of Custody Signatures

	Relinquished By (Signed)	Date	Time	Received by (signed)	Date	Time
1	[signature]	4-22-2010	3:00pm	[signature]	4/23/10	920
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS overnight Date Shipped: 4-22-2010
Airbill #:
Airbill #:

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: 6 C

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW = Drinking Water, GW = Groundwater, SW = Surface Water, WW = Waste Water, W = Water, SO = Soil, SD = Sediment, SL = Sludge, SS = Solid Waste, O = Oil, F = Filter, P = Wipe, U = Urine, F = Fecal, N = Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

00286

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/AR/COC/Work Order: ~~MMCG~~ 251657
Received By: Dionne Franco	Date Received: 4-23-10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		✓	Maximum Counts Observed*: 20CPM
Classified Radioactive II or III by RSO?		✓	
COC/Samples marked containing PCBs?		✓	
Shipped as a DOT Hazardous?		✓	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		✓	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
2	Samples requiring cold preservation within (0 ≤ 6 deg. C)?	✓			Preservation Method: (Ice bags) Blue ice Dry ice None Other (describe) 6°C
2a	Daily check performed and passed on IR temperature gun?	✓			Temperature Device Serial #: 510 49919 Secondary Temperature Device Serial # (If Applicable):
3	Chain of custody documents included with shipment?	✓			
4	Sample containers intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
5	Samples requiring chemical preservation at proper pH?		✓		Sample ID's, containers affected and observed pH: If Preservation added, Lot#: VIALS
6	VOA vials free of headspace (defined as < 6mm bubble)?	✓			Sample ID's and containers affected:
7	Are Encore containers present?			✓	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	✓			ID's and tests affected:
9	Sample ID's on COC match ID's on bottles?	✓			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	✓			Sample ID's affected:
11	Number of containers received match number indicated on COC?	✓			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	✓			
13	Carrier and tracking number.	✓			Circle Applicable: FedEx Air FedEx Ground (UPS) Field Services Courier Other 1Z 385 ~~E88~~ ERR 03 9620 9792

Comments (Use Continuation Form if needed):

Page PMA Review: Initials _____ Date 4-23-10 Page 1 of 1

00287

List of current GEL Certifications as of 09 June 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California – NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida – NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois – NELAP	200029
Indiana	C-SC-01
Kansas – NELAP	E-10332
Kentucky	90129
Louisiana – NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey – NELAP	SC002
New Mexico	FL NELAP E87156
New York – NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania – NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas – NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah – NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

APPENDIX 2

Construction Cost Estimates

- Immediate Needs
  - Option 1 = Well #1 Startup + Blending with New Well #3
  - Option 2 = Well #1 Startup + Blending with New Well #2
- Potential Future Needs
  - Well #1 - Treatment Upgrades for Radium/VOC Removal
- Water System O&M Budget - ARW v/s Oliver Environmental, Inc.
  - Scenario 1 - Groundwater Does Not Exceed MCL
  - Scenario 2 - Groundwater Exceeds MCL For Radium/VOC
- Year 1 Operating Budget - Cost per User
  - Scenario 1
  - Scenario 2

TOWN OF MCBEE
IMMEDIATE WATER SYSTEM NEEDS
CONSTRUCTION COST ESTIMATE

OPTION 1 = Well #1 Startup + Blending with New Well #3

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$10,000
2.	New Potable Water Well Site (min. 6" diameter)	1	LS	$100,000
3.	6" PVC C900 Water Main From Well #3 to Well #1	4,000	LF	$60,000
4.	US-1 Crossing - Bore & Jack w/ Steel Casing	120	LF	$21,600
5.	Blending Connection to Well #1 Site Piping	1	LS	$15,000
6.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$231,600

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$11,580
2.	Basic Services (Engineering Design, etc.)		10.0%	$23,160
3.	Resident Inspection			$10,000
4.	Permanent Generator On-Site (30 kVa)			$20,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$64,740

TOTAL PROJECT COSTS = (A+B)	$296,340

TOWN OF MCBEE
IMMEDIATE WATER SYSTEM NEEDS
CONSTRUCTION COST ESTIMATE

OPTION 2 = Well #1 Startup + Blending with New Well #2

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$10,000
2.	Electrical Repairs & Miscellaneous Well Rehab	1	LS	$35,000
3.	6" PVC C900 Water Main From Well #2 to Well #1	11,000	LF	$165,000
4.	Railroad Crossing - Bore & Jack w/ Steel Casing	1	LS	$25,000
5.	Blending Connection to Well #1 Site Piping	1	LS	$15,000
6.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$275,000

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$13,750
2.	Basic Services (Engineering Design, etc.)		10.0%	$27,500
3.	Resident Inspection			$10,000
4.	Permanent Generator On-Site (30 kVa)			$20,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$71,250

TOTAL PROJECT COSTS = (A+B)	$346,250

TOWN OF MCBEE
POTENTIAL FUTURE WATER SYSTEM NEEDS
CONSTRUCTION COST ESTIMATE

WELL #1 - Treatment Upgrades

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$15,000
2.	Activated Carbon Pressure Vessels	1	LS	$100,000
3.	Green Sand Pressure Vessels	1	LS	$80,000
4.	Site Piping	1	LS	$30,000
5.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$250,000

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$12,500
2.	Basic Services (Engineering Design, etc.)		9.5%	$23,750
3.	Resident Inspection			$10,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$46,250

TOTAL PROJECT COSTS = (A+B)	$296,250
CURRENT + FUTURE TOTAL PROJECT COSTS = (OPTION 1)	$592,590
CURRENT + FUTURE TOTAL PROJECT COSTS = (OPTION 2)	$642,500
DIFFERENCE	$49,910

Town of McBe
Scenario 1 - GROUN.. /A
Water System O&M Budgets - Alligator Rural Wate

		Historic FY endin 200
		Operati
1. Revenues from Customers and Miscellaneous Fees		
1	Service charges	$
2	Water Bills to McBee Customers	$ 1
3	Water taps	$
4	Miscellaneous deposits	$
5	Reconnections	$
6	Interest income	$
	TOTALS	$ 1

		Operati
2. Direct Operation of Water System		
	Alligator Water - Bulk Water/O&M Charge	$
1	O&M Contract Services	$
2	Disposal of Treatment Byproducts - Contract Services	$
3	Misc. Repairs and maintenance	$
4	Water pumps	$
5	Salary - Water System ORC	$
6	Payroll Taxes	$
7	Retirement	$
8	Health/Life Insurance; Workers Compensation	$
9	Liability & Equipment Insurance	$
10	Uniforms	$
11	Vehicle & Equipment Maintenance	$
12	Equipment Rental	$
13	Fuel for Vehicle and Equipment	$
14	Professional Services --Electrical & Mechanical; WTP Components	$
15	Hardware & Appurtenances	$
16	Regular Repair, Maintenance & Supplies	$
17	Emergency Repair, Maintenance & Supplies	$
18	Lab Analysis & DHEC Fees	$
19	Utilities - Power for well operation	$
20	Water Treatment Chemicals	$
	TOTALS	$

, South Carolina
EK DOES NOT EXCEED MCL
v/s Oliver Environmental, Inc. (UPDATED 12-6-2010)

/ater Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.
6-30	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2011	FY ending 6-30 2011
g Revenue				3% annual inflation
166	$ 6,107	$ 50	$ 60	$ 60
3,587	$ 201,234	$ 226,275	$ 254,700	$ 254,700
1,750	$ 929	$ 5,732	$ 6,500	$ 6,500
-	$ 1,000	$ 31	$ 40	$ 40
750	$ 1,225	$ 1,700	$ 2,000	$ 2,000
1,667	$ 1,948	$ 2,079	$ 2,400	$ 2,400
7,920	$ 212,443	$ 235,867	$ 265,700	$ 265,700
g Expenses				
1.25	$ 1.25	$ 1.25	$ 1.50	(per 1,000 gallons)
18,380	$ 79,766	$ 82,168	$ 113,314	$ 36,500
-	$ -	$ -	$ -	$ -
280	$ 395	$ 800	$ -	$ -
240	$ 631	$ 229	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ 500	$ 500
-	$ -	$ -	$ 2,000	$ 2,000
-	$ -	$ -	$ 2,000	$ 2,000
-	$ -	$ -	$ 500	$ 500
-	$ -	$ -	$ -	$ 6,000
-	$ -	$ -	$ -	$ 9,700
-	$ -	$ -	$ -	$ 10,000
3,900	$ 80,792	$ 83,197	$ 118,314	$ 67,200

Net Difference	$ 51,114

Town of McBe
Scenario 1 - GROUN[illegible]VA
Water System O&M Budgets - Alligator Rural Wate

		Historic FY endir 200
3. General and Administration		
1	Salaries and wages (Town-Paid Personnel)	$
2	Payroll tax	$
3	Retirement	$
4	Group life/accidental death	$
5	Software maintenance agreement	$
6	Refunds on water deposits	$
7	Due of water bills from deposits	$
8	Bank charges	$
9	Postage	$
10	Office supplies	$
11	Theft expense	$
12	Water project expense	$
13	Insufficient fund charges	$
	TOTALS	$ 2
4. Other Expenses		
1	Interest expense (USDA Loan)	$
2	Principal Payment (USDA Loan)	$
3	Debt Service Payment (Financing of Independent Start-Up Requ.)	$
4	Capital Outlay for Elevated Tanks - Future Coatings/Repairs	$
5	Unclassified Items	$
6	Transfer to General Fund	$
	TOTALS	$
Total Operating Expenses		$ 12
Net Operating Income		$ [illegible]

...ith Carolina
...DOES NOT EXCEED MCL
...v/s Oliver Environmental, Inc. (UPDATED 12-6-2010)

Water Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.
6-30	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2011	FY ending 6-30 2011
16,630	$ 22,565	$ 18,244	$ 20,600	$ 20,600
1,272	$ 1,726	$ 1,396	$ 1,600	$ 1,600
314	$ 1,738	$ 644	$ 800	$ 800
13	$ 20	$ 16	$ 20	$ 20
1,494	$ 1,625	$ -	$ -	$ -
901	$ 436	$ 207	$ 300	$ 300
363	$ 420	$ 269	$ 400	$ 400
416	$ 622	$ 193	$ 300	$ 300
1,371	$ 1,434	$ 1,670	$ 1,900	$ 1,900
-	$ -	$ 143	$ 200	$ 200
-	$ -	$ 4	$ -	$ -
2,147	$ -	$ 28,352	$ -	$ -
-	$ -	$ 31	$ -	$ -
	$ 30,586	$ 51,169	$ 26,120	$ 26,120
-	$ -	$ 75,332	$ 75,127	$ 75,127
-	$ -	$ -	$ 17,525	$ 17,525
-	$ -	$ -	$ -	$ 27,017
-	$ -	$ -	$ 10,000	$ 10,000
-	$ -	$ 7,461	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ 82,793	$ 102,652	$ 129,669
3,821	$ 111,378	$ 217,159	$ 247,086	$ 222,989
4,099	$ 101,065	$ 18,708	$ 18,614	$ 42,711
			Net Savings	$ 24,097

Town of McBe
Scenario 2 - GROUNDWA...R E
Water System O&M Budgets - Alligator Rural Wate

		Historic \
		FY endin 200
		Operatir
1. Revenues from Customers and Miscellaneous Fees		
1	Service charges	$
2	Water Bills to McBee Customers	$ 1
3	Water taps	$
4	Miscellaneous deposits	$
5	Reconnections	$
6	Interest Income	$
	TOTALS	$ 1

		Operatir
2. Direct Operation of Water System		
	Alligator Water - Bulk Water/O&M Charge	$
1	O&M Contract Services	$
2	Disposal of Treatment Byproducts - Contract Services	$
3	Misc. Repairs and maintenance	$
4	Water pumps	$
5	Salary - Water System ORC	$
6	Payroll Taxes	$
7	Retirement	$
8	Health/Life Insurance; Workers Compensation	$
9	Liability & Equipment Insurance	$
10	Uniforms	$
11	Vehicle & Equipment Maintenance	$
12	Equipment Rental	$
13	Fuel for Vehicle and Equipment	$
14	Professional Services - Electrical & Mechanical; WTP Components	$
15	Hardware & Appurtenances	$
16	Regular Repair, Maintenance & Supplies	$
17	Emergency Repair, Maintenance & Supplies	$
18	Lab Analysis & DHEC Fees	$
19	Utilities - Power for well operation	$
20	Water Treatment Chemicals	$
	TOTALS	$ 9

S[illegible]th Carolina
[illegible]OS MCL FOR RADIUM/VOC
v/s Oliver Environmental, Inc. (UPDATED 12-6-2010)

'ater Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.
6-30	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2011	FY ending 6-30 2011
Revenue				
			3% annual inflation	
166	$ 6,107	$ 50	$ 60	$ 60
3,587	$ 201,234	$ 226,275	$ 254,700	$ 254,700
1,750	$ 929	$ 5,732	$ 6,500	$ 6,500
-	$ 1,000	$ 31	$ 40	$ 40
750	$ 1,225	$ 1,700	$ 2,000	$ 2,000
1,667	$ 1,948	$ 2,079	$ 2,400	$ 2,400
7,920	$ 212,443	$ 235,867	$ 265,700	$ 265,700
Expenses				
	$ 1.25	$ 1.25	$ 1.50 (per 1,000 gallons)	
8,380	$ 79,766	$ 82,168	$ 113,314	$ 36,500
-	$ -	$ -	$ -	$ 20,000
280	$ 395	$ 800	$ -	$ -
240	$ 631	$ 229	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ 500	$ 500
-	$ -	$ -	$ 2,000	$ 2,000
-	$ -	$ -	$ 2,000	$ 2,000
-	$ -	$ -	$ 500	$ 500
-	$ -	$ -	$ -	$ 6,000
-	$ -	$ -	$ -	$ 9,700
-	$ -	$ -	$ -	$ 10,000
9,900	$ 80,792	$ 83,197	$ 118,314	$ 87,200

Net Difference	$ 31,114

3 of 6

Town of McRee
Scenario 2 - GROUNDWA... E)
Water System O&M Budgets - Alligator Rural Water

		Historic V
		FY endin 2005
3. General and Administration		
1	Salaries and wages (Town-Paid Personnel)	$
2	Payroll tax	$
3	Retirement	$
4	Group life/accidental death	$
5	Software maintenance agreement	$
6	Refunds on water deposits	$
7	Due of water bills from deposits	$
8	Bank charges	$
9	Postage	$
10	Office supplies	$
11	Theft expense	$
12	Water project expense	$
13	Insufficient fund charges	$
	TOTALS	$ 24
4. Other Expenses		
1	Interest expense (USDA Loan)	$
2	Principal Payment (USDA Loan)	$
3	Debt Service Payment (Financing of Independent Start-Up Requ.)	$
4	Capital Outlay for Elevated Tanks - Future Coatings/Repairs	$
5	Unclassified Items	$
6	Transfer to General Fund	$
	TOTALS	$
	Total Operating Expenses	$ 12
	Net Operating Income	$ 5

. South Carolina
(C...S MCL FOR RADIUM/VOC
v/s Oliver Environmental, Inc. (UPDATED 12-6-2010)

	Water Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.
6-30	FY ending 6-30 2006	FY ending 6-30 2007		FY ending 6-30 2011	FY ending 6-30 2011
5,630	$ 22,565	$ 18,244		$ 20,600	$ 20,600
1,272	$ 1,726	$ 1,396		$ 1,600	$ 1,600
314	$ 1,738	$ 644		$ 800	$ 800
13	$ 20	$ 16		$ 20	$ 20
1,494	$ 1,625	$ -		$ -	$ -
901	$ 436	$ 207		$ 300	$ 300
363	$ 420	$ 269		$ 400	$ 400
416	$ 622	$ 193		$ 300	$ 300
1,371	$ 1,434	$ 1,670		$ 1,900	$ 1,900
-	$ -	$ 143		$ 200	$ 200
-	$ -	$ 4		$ -	$ -
2,147	$ -	$ 28,352		$ -	$ -
-	$ -	$ 31		$ -	$ -
9	$ 30,586	$ 51,169		$ 26,120	$ 26,120
-	$ -	$ 75,332		$ 75,127	$ 75,127
-	$ -	$ -		$ 17,525	$ 17,525
-	$ -	$ -		$ -	$ 27,017
-	$ -	$ -		$ 10,000	$ 10,000
-	$ -	$ 7,461		$ -	$ -
-	$ -	$ -		$ -	$ -
-	$ -	$ 82,793		$ 102,652	$ 129,669
,821	$ 111,378	$ 217,159		$ 247,086	$ 242,989
,099	$ 101,065	$ 18,708		$ 18,614	$ 22,711
			Net Savings	$ 4,097	

TOWN OF MCBEE
YEAR 1 OPERATING BUDGET
SCENARIO 1: GROUNDWATER DOES NOT EXCEED MCL

Annual Revenues	Projected Budget with ARW	Projected Budget with Oliver Env.	Difference
1. Water Sales Revenue	$ 254,700	$ 254,700	$ -
2. Other Revenues	$ 11,000	$ 11,000	$ -
Total Revenues	**$ 265,700**	**$ 265,700**	**$ -**

Annual Operating Expenses	Projected Budget with ARW	Projected Budget with Oliver Env.	Difference
1. O&M Contract Services*	$ 113,314	$ 36,500	$ 76,814
2. Disposal of Treatment Byproducts	$ -	$ -	$ -
3. Other Operating Expenses	$ 5,000	$ 30,700	$ (25,700)
4. General and Administration	$ 26,120	$ 26,120	$ -
5. Existing Debt Service (USDA)	$ 92,652	$ 92,652	$ -
6. Proposed Annual Debt Service (USDA)	$ -	$ 27,017	$ (27,017)
7. Capital Reserve	$ 10,000	$ 10,000	$ -
Total Expenses	**$ 247,086**	**$ 222,989**	**$ 24,097**
Budget Surplus or (Deficit)	**$ 18,614**	**$ 42,711**	**-**
Cost per Customer**			**$ (4.56)**

* It is estimated that McBee has a customer base of 440 residential and commercial connections. Average annual water use is estimated at 75.5 million gallons, or 6.3 million gallons per month. This includes all water consumption, as well as flushing and system losses.

** The cost per customer is an equivalent monthly fee that McBee would have to charge each customer in order to recoup the cost difference. In Scenario 1, it is significantly less expensive for McBee to provide its own water treatment than to remain with ARW. Therefore, Oliver Environmental, Inc. represents a cost savings of $4.56 per month per customer versus ARW. It should be noted that both alternatives provide for a budget surplus, but Oliver Environmental, Inc. allows McBee to be more "in the black" for Scenario 1.

TOWN OF MCBEE
YEAR 1 OPERATING BUDGET
SCENARIO 2: GROUNDWATER EXCEEDS MCL FOR RADIUM/VOC

Annual Revenues	Projected Budget with ARW	Projected Budget with Oliver Env.	Difference
1. Water Sales Revenue	$ 254,700	$ 254,700	$ -
2. Other Revenues	$ 11,000	$ 11,000	$ -
Total Revenues	**$ 265,700**	**$ 265,700**	**$ -**

Annual Operating Expenses	Projected Budget with ARW	Projected Budget with Oliver Env.	Difference
1. O&M Contract Services	$ 113,314	$ 36,500	$ 76,814
2. Disposal of Treatment Byproducts	$ -	$ 20,000	$ (20,000)
3. Other Operating Expenses	$ 5,000	$ 30,700	$ (25,700)
4. General and Administration	$ 26,120	$ 26,120	$ -
5. Existing Debt Service (USDA)	$ 92,652	$ 92,652	$ -
6. Proposed Annual Debt Service (USDA)	$ -	$ 27,017	$ (27,017)
7. Capital Reserve	$ 10,000	$ 10,000	$ -
Total Expenses	**$ 247,086**	**$ 242,989**	**$ 4,097**
Budget Surplus or (Deficit)	**$ 18,614**	**$ 22,711**	**$ -**
Cost per Customer*			**$ (0.78)**

* It is estimated that McBee has a customer base of 440 residential and commercial connections. Average annual water use is estimated at 75.5 million gallons, or 6.3 million gallons per month. This includes all water consumption, as well as flushing and system losses.

** In Scenario 2, it is less expensive for McBee to provide its own water treatment than to remain with ARW. Therefore, Oliver Environmental, Inc. represents a cost savings of $0.78 per month per customer versus ARW. Similar to Scenario 1, both alternatives provide for a budget surplus, but Oliver Environmental, Inc. allows McBee to be more "in the black" for Scenario 2. In addition, McBee may be able to eliminate the need for the radium backwash service requirement in the next 5-10 years if the Town is successful in acquiring funding and permits to construct a central wastewater collection system for its residents. After the gravity collection system is built, any wastewater stream can be discharged to the Town-owned collection system for dilution, treatment, and disposal at no additional cost to the Town.

APPENDIX 3

Request for Proposals – Contract Operations for McBee Water System (performed July 2008, revised June 2010)

- Draft Agreement Between Oliver Environmental, Inc. and McBee
- Resume for Joey Oliver, Oliver Environmental, Inc.
- Summary of O&M Duties – McBee v/s Private Contractor
- Request for Proposals (sent July 2008 to all Certified Operators within 50 miles of McBee)

OLIVER ENVIRONMENT
P.O. BOX 291
RUBY,SOUTH CAROLINA 29741
843-634-7093 / 843-680-0815

TO: TOWN OF MCBEE
MR. JOHN CAMPOLONG
FROM: OLIVER ENVIRONMENTAL SERVICES
DATE: NOVEMBER 18, 2010
RE: SERVICES PROPOSAL

Dear Mr. Campolong, thank you in advance for your consideration of the following proposal. Oliver Environmental Services would like to offer to the Town of McBee Operations,Consulting,and Management for the Town of McBee's Water treatment, and Distribution System's. Oliver Environmental Services will provide certified operators to operate the towns water system and distribution system, maintain documentation , prepare reports for SCDHEC, order all chemicals and supplies needed to operate facilities and have suppliers bill the town directly. Oliver Environmental Services will provide personal for required sampling ,and Shealy Environmental Services will be used for laboratory testing , and will bill the town directly. Oliver Environmental Services will coordinate all Maintenance, and Electrical Services through the towns maintenances department and will assist the town in securing qualified independent contractors to make repairs. In the event of an emergency: for line breaks, and maintenance Jones Construction of Kershaw, South Carolina, and for Electrical Emergencies Truesdale Electric of Kershaw, South Carolina will be called. The Town of McBee's maintenance department will be taking care of Meter Reading residential water and sewer taps , supplying water services , and disconnecting water services , answering water and sewer complaints, and any other maintenance issues that may arise. Oliver Environmental Services would like to offer these services to the Town of McBee for Thirty Six Thousand Five Hundred Dollars a Year. ($36,500.00). Oliver Environmental Services will bill once a month for ($3,041.67).

Sincerely,

Joey Oliver

Joey Lee Oliver Sr.

DOB 11/23/59

P.O.BOX291

Ruby,S.C.29741

PH# 843-634-7093

RE: RESUME

Employment

Company Address	Date	Job Title	Supervisor
Oliver Env. services	2004-	Project Manager	Joey Oliver
Severn Trent	2003-2006	Operations Supervisor	Stan Wright
Ch2mhill / Invista Camden S.C.	2008-2010	Water Distribution Operator of Record	Dawn Smith
Town of Heath Springs Heath Springs S.C.	2004-	Utilities Manager	Mayor Ann Taylor
Town of Kershaw Kershaw, S.C.	2009-	Contract Utilities Manager	Tony Starnes
Pageland Screen Pageland, SC	2004-2008	Waste-Water Plant Manager	Eugene Robertson
Central Carolina Tec Sumter S.C.	2006-	Environmental Systems Operator Instructor	Walter Presson

Education

Bennetsville High School
Bennetsville, SC 29512

Central Carolina Tech.
Sumter, SC 29150
Waste-Water Certifications S.C.
"A" Physical/Chemical

"A" Biological
Water Certification
"A" Water
Distribution Certification
"A"
Collection Certification
" A"
Certified Backflow Tester

Special Skills
Planning / Sceduling
Industrial Maintenance
Hazardous Chemical Handling and Storage
Waste Water/ Water Treatment Trouble Shooting For Cost Reduction
Pump Maintenance Training
Basic Chemistry Skills
Basic Lab Analysis
Cyanide Destruction--Using H202 or Alkaline Chlorinating
Carbon Absorption
Oil&Grease Removal
Plates Frame Filter Press
Belt Press
Computer Skills (Lotus/Windows/Microsoft)
20 Years of Supervision/ Manager Experience in the Waste-Water Applications:
Metal Finishing (Aluminum Can Production, Oil&Grease Removal)
Winery Waste (Landfill Application)
Textile Waste (Dye, Inks, Latex's)
Cyanide Destruction
Refinery (Ion Exchange, Plating)
Centrifuge Operation
Nitrogen/Ammonia Removal (Chemically Bound)
Reverse Osmosis
Water Usage Conservation
Water Plant Operation
Wastewater Plant Operation
Water &Sewer line installation & Maintenance
Water Meter installation & Maintenance
Lagoon Closure
Street Maintenance
Sanitation
Storm Drain Maintenance
S.C. Certified BackFlow Tester
Instructor Central Carolina Tec.

Pageland Screen Printers

Title: Waste-Water Treatment Plant Manager
Pageland, SC 29728
Responsibilities:
Plant Manager of Operations
Staffing, Scheduling, Purchasing
Record Keeping
Responsible for Reports to Industry and State
Solid Waste Disposal
Pump and Electrical Maintenance
Conservation Programs
Cost Reduction

Severn Trent Services
Title: Operations Supervisor
Responsibilities:
Plans, coordinates and supervises the operation of a Four MGD Surface Water Treatment Plant . A Four MGD Industrial Biological Wastewater Treatment Plant and a .1MGD Biological Domestic Wastewater Treatment Plant, maintain and repair water and sewage facilities .
Performs various supervisory duties including instructing, assigning, planning and reviewing the work of subordinates, coordinating activities, allocating personnel, and acting on employee problems.
Cordinates, and directs rate studies and makes recommendations for modifications of rate structures.
Recommends and assists in equipment of facility upgrades; makes recommendations for expansion and in the development of long range plans; coordinates with DEHEC engineers as required.
Prepares various records and reports as reports to DEHEC, water consumption, maintenance records, calibration records, work orders, etc.
Interacts and consults with various individuals and groups involved in daily operations such as regulatory officers, engineering firms, Other officials, co-workers and the general public.
Inspects sewer lift stations, water pumps, and other facilities as needed to assess working condition.
Performs public relations work in interpreting policies to citizens of the community.
Consults with supervisory personnel on problems of operations and maintenance of existing facilities ;such as Storm Drainage, and implements the decisions, determinations and policies directed by superiors.

Organizational Chart of Services Performed - Allig

Costs & Services Included in the Daily

	Duties of Water System ORG
1	Operations, Consulting, and Management
2	General Daily Operation
3	Water System Sampling
4	DHEC Reporting
5	Meter Reading (ALL master meters, residential and commercial readings)
6	Coordination of all services sub-contracted
7	Lab Analysis & DHEC Fees
8	Electricity and Chemicals

Costs & Services NOT Included in the Da

1	Backflow prevention testing (once annually)
2	Distribution Line Repairs
3	Residential Taps
4	New Line Installation
5	Emergency Response
6	Electrical and Mechanical Maintenance
7	Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.
8	Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.
9	Fire hydrant flushing and blow-off/post hydrant flushing
10	Valve exercise
11	Leak detection

Outside of the Normal Scope o

1	Engineering procurement
2	Grant administration
3	Elevated tank maintenance
4	Capital Improvements
5	Well rehabilitations

ator Rural Water v/s Oliver Environmental, Inc.				
)&M Contract - EXISTING CONTRACT				
ARW	Subconsultant to ARW	McBee	Currently Not performed	Current Billing Procedures
				$1.25 per 1,000 gallons ($82,200 FY-2008, estimate)
y O&M Contract - EXISTING CONTRACT				
				Directly Billed to McBEE annually, or as services are performed ($5,000 annually, estimate)
				No direct bill; services performed by Town
				Currently not performed or billed
ervices - Additional Fees Apply				
				Billed to McBEE as services are performed
				capital project financing

Organizational Chart of Services Performed - Allig

Costs & Services Included in the Daily O

	Duties of Water System ORC	E
1	Operations, Consulting, and Management	
2	General Daily Operation	
3	Water System Sampling	
4	DHEC Reporting	
5	Coordination of all services sub-contracted	
6	Backflow prevention testing (once annually)	

Costs & Services NOT Included in the Daily

1	Distribution Line Repairs
2	Residential Taps
3	New Line Installation
4	Emergency Response
5	Electrical and Mechanical Maintenance
6	Lab Analysis & DHEC Fees
7	Electricity and Chemicals
8	Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.
9	Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.
10	Meter Reading (ALL master meters, residential and commercial readings).
11	Fire hydrant flushing and blow-off/post hydrant flushing
12	Valve exercise
13	Leak detection

Outside of the Normal Scope of

1	Engineering procurement
2	Grant administration
3	Elevated tank maintenance
4	Capital Improvements
5	Well rehabilitations

ıtor Rural Water v/s Oliver Environmental, Inc.				
&M Contract - PROPOSED CONTRACT				
)liver V., Inc.	Subconsultant to Oliver Env., Inc.	McBee	Currently Not performed	Current Billing Procedures
				$36,500 annually (Bid Price Received 8-1-2008)
O&M Contract - PROPOSED CONTRACT				
				Directly Billed to McBEE annually, or as services are performed ($5,000 annually, estimate)
				Directly Billed to McBEE annually, or as services are performed ($25,700 annually, estimate)
				No direct bill; services performed by Town
				Currently not performed or billed
Services - Additional Fees Apply				
				Billed to McBEE as services are performed
				capital project financing

REQUEST FOR PROPOSALS
OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
TOWN OF McBEE, SOUTH CAROLINA

A. RFP General Information

i. The objective of this Request for Proposals (RFP) is to solicit bid prices and summary statements of qualifications from professional water consultants, existing water utilities, and other qualified entities (hereinafter called the OPERATOR), licensed in the State of South Carolina, to provide comprehensive water treatment and distribution Operation and Maintenance services (O&M) to the TOWN OF McBEE. McBEE, located in Chesterfield County, South Carolina, seeks professional services related to the maintenance and operation of the McBEE groundwater supply well(s), treatment systems, and distribution and storage systems in compliance with State and Federal Regulations.

ii. It should be noted that minimal treatment is required to treat the groundwater withdrawn from the Middendorf aquifer to potable status.

B. Basis for Potential Award

i. Responses to this RFP will be used to determine the qualifications of various entities to provide the scope of work and tasks specified. McBEE will conduct a final selection based on the responsive, responsible OPERATOR with the most economical LUMP SUM BID for the proposed services.

ii. McBEE does not guarantee that any OPERATOR will be selected, or contract awarded, for the services described in this RFP. If an OPERATOR is selected by McBEE, McBEE does not make any guarantee when an award would be made for the services described in this RFP.

iii. If an award is granted for the O&M services described in this RFP, McBEE does not guarantee the term of this award for any duration. The OPERATOR's performance will be subject to a detailed review annually. This review will be conducted by representatives of the TOWN OF McBEE and a summary of this review will be made available to the OPERATOR. Any actions deemed necessary to continue, terminate, or alter the contract term will be at the sole discretion of McBEE.

iv. The information contained in the DESCRIPTION OF SERVICE REQUIREMENTS should be used by the OPERATOR to develop an ANNUAL LUMP SUM BID for Operation and Maintenance services, payable in monthly installments. A detailed audit of the documented costs used to determine the LUMP SUM BID will be conducted annually and reviewed by the OPERATOR and the TOWN OF McBEE. The results of this audit will be used to determine if any change in compensation is warranted for the Scope of Services provided in this RFP.

C. OPERATOR Questions Concerning this RFP

i. This RFP contains, in general terms, the overall objectives of McBEE in obtaining the O&M services of a qualified OPERATOR. If it becomes necessary to revise any part of this RFP, amendments will be made available to all potential OPERATORS.

ii. Questions regarding the scope of services for this RFP shall be submitted in writing and directed to the ENGINEER, Brian Sexton, P.E., Marziano & McGougan, P.A. The deadline for submitting questions regarding this RFP is by close of business July 30, 2008. All responses to questions, including any significant changes and/or modifications, will be faxed to all parties.

Marziano & McGougan, P.A.
Brian Sexton, P.E.
1300 Second Avenue, Suite 211
Conway, SC 29526
(843) 488-0124 Phone
(843) 488-0129 Fax
E-mail: bsexton@marziano-mcgougan.com

D. OPERATOR's Response to this RFP

i. McBEE is seeking OPERATORS which demonstrate expertise described within this RFP and which demonstrate the ability to provide equipment, personnel and expertise in providing the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS. It is anticipated that an agreement for O&M will be executed between McBEE and the OPERATOR which is determined to best meet the needs of McBEE.

ii. Each OPERATOR providing a proposal for consideration by McBEE is responsible for obtaining information on the conditions, restrictions, and State/Federal regulations involved in providing the O&M services as set forth in this RFP.

iii. RFP responses must include the following materials in order to be considered as a responsive bidder:

- Consultant's statement of qualifications to perform the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS
- Annual LUMP SUM BID to perform the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS
- Resumes, certifications, and certification numbers of all personnel proposed to coordinate the operations and service requirements on behalf of McBEE
- Water system management approach
- Anticipated schedule of on-site visits
- Man-hour estimates of routine work to be performed on-site and off-site in order to maintain water system compliance
- Estimated routine response time and emergency response time from consultant's operational base to the McBEE Well #1 location near Town Hall

- Schedule of fees for routine maintenance and emergency maintenance (should include personnel and equipment prices separately)
- Proposed method of transferring pertinent water system operational data to McBEE using the existing on-site SCADA telemetry system

iv. The annual LUMP SUM BID must be <u>exclusive</u> of all material costs for routine and emergency repairs to the water system. Any routine or emergency repairs to the water system, up to an estimated cost of $5,000, must be performed by the OPERATOR in accordance with the <u>DESCRIPTION OF SERVICE REQUIREMENTS.</u>

Any routine or emergency repairs to the water system, with an estimated cost greater than $5,000, may be advertised for competitive bids at the option of McBEE. McBEE can make award to the water system OPERATOR or another bidder after receiving, opening, and evaluating bids. McBEE will conduct a final selection for the repair work based on the responsive, responsible BIDDER with the most economical BID for the proposed services.

v. <u>RFP responses must be submitted by mail or be delivered in person at the address listed below no later than 4:00 P.M. E.S.T. on August 1, 2008</u>. Late submittals will not be accepted for consideration. Five (5) copies of the OPERATOR's response must be submitted. Once all submittals have been reviewed, OPERATORs should be prepared to provide additional details and clarifications of their bid, if so requested by McBEE. All submitted responses will be retained and will not be returned.

All responses and supporting materials should be enclosed in a sealed envelope and properly marked as follows, with the name and address of the responding firm on the front of the envelope:

BIDDER'S PROPOSAL - OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
DELIVERED TO McBEE TOWN HALL on _____, 2008 @ _____ a.m. p.m.
Attn: Mr. John Campolong, Town Council
38 W. Juniper Avenue
P.O. Box 248
McBEE, SC 29101
(843) 335-8474 Phone
(843) 335-5163 Fax

DESCRIPTION OF SERVICE REQUIREMENTS
OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
TOWN OF McBEE, SOUTH CAROLINA

1. TOWN OF McBEE - WATER SYSTEM DESCRIPTION

1.1 McBEE Water System Components

The McBEE water system consists of approximately 80,000 linear feet (15 miles) of PVC water distribution mains located in southern Chesterfield County, South Carolina. The system is supplied through the use of one (1) regular supply well, Primary Well #1, and one (1) emergency/supplemental supply well, Secondary Well #2.

Currently, McBEE has one (1) emergency/supplemental interconnection with the Alligator Rural Water system. The connection to Alligator Rural Water may be terminated once the Secondary Well #2 is on-line.

McBEE serves approximately 385 residential water connections; in addition, the system serves approximately 50 commercial customers. The average daily water demand is approximately 207,000 gallons per day (calendar year 2007). The following components summarize the additional infrastructure in the McBEE water system:

- Primary Well #1 located adjacent to the existing well site near Town Hall (includes emergency generator on site).
- Water treatment plant, consisting of a liquid lime feed system, bulk chemical storage, chlorine gas treatment, and appurtenant SCADA telemetry.
- Secondary Well #2 located near A.O. Smith manufacturing company. This well is currently off-line.
- One 75,000 gallon elevated storage tank located at the Well #1 site.
- One 250,000 gallon elevated storage tank located at A.O. Smith manufacturing company.

1.2 Condition of the Existing McBEE Water System Components

The overall condition of the McBEE water system is considered to be excellent, in "like new" condition. This is because 100% of McBEE's water mains were replaced in 2004 as part of a USDA Rural Development Association (USDA-RDA) project. Additional work performed in 2004 as part of this USDA-RDA project includes the following:

- Construction of a new primary Well #1 located adjacent to the existing well site near Town Hall.
- Construction of a new water treatment plant at the Well #1 site.
- Replacement of all water meters with Sensus radio read meters.
- Repaint of the interior and exterior of both elevated storage tanks.

Secondary Well #2 is currently off-line, but planning is underway to rehabilitate this well and place it back into service in the immediate future. The proposed upgrade to this well includes the following components:

- Addition of gas chlorine disinfection system (chlorine to be stored off site until the well is placed into service)
- Caustic soda chemical 30-day tank (approximately 300 gallons)
- SCADA telemetry system
- Portable generator quick-connection

2. DUTIES OF THE TOWN OF McBEE

The following summarizes the tasks that will be performed by the Town of McBEE in the normal operation and maintenance of the water system and its administration:

2.1 Water System Administration

All of the services described below are currently conducted by McBEE, its personnel and resources.

2.1.1 Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.

2.1.2 Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.

Monthly water meter reading services are provided by current outside operator. All water meters are radio-read meters and shall be read by McBEE, its personnel and resources.

2.1.3 Monthly water meter reading services for all residential and commercial customers. This information will be used by McBEE to generate monthly water bills.

2.2 Water Distribution/Storage O&M

All of the services described below are currently conducted by McBEE, its personnel and resources.

2.2.1 Fire hydrant flushing and blow-off/post hydrant flushing
2.2.2 Valve exercise program
2.2.3 Leak detection program

2.3 Engineering Procurement and Other Professional Services

2.3.1 Procurement of engineering services related to the expansion of the water distribution system and/or expansion of McBEE's capacity to withdraw and treat water for sale to its customer base.

3. ROUTINE DUTIES OF THE CONTRACT OPERATOR

The following summarizes the tasks that will be performed by the OPERATOR during the normal operation and maintenance of the water system and its administration:

3.1 Regulatory Requirements and Conditions for Reliable Service

3.1.1 OPERATOR shall comply with all requirements of the Safe Drinking Water Act and DHEC.

3.1.2 OPERATOR shall employ sound utility practices to ensure continuous, dependable, and reliable operation of the McBEE well(s) and treatment systems. The OPERATOR must work to minimize the scope and length of any water service disruption.

3.1.3 OPERATOR shall establish and submit an O&M/Water Quality Management Plan. The Plan shall ensure the provision of reliable, cost-effective, and compliant service over the term of the contract. OPERATOR shall maintain and update the Plan as necessary and adhere to its requirements throughout the contract term.

3.1.4 OPERATOR shall generate monthly reports indicating the following:

3.1.4.1 Daily volume of water pumped from Well #1 (and Well #2 when applicable)

3.1.4.2 Daily master meter readings at the interconnection to the Alligator Rural Water System (unless this connection is terminated).

3.2 Public Notification Requirements

3.2.1 OPERATOR shall notify McBEE of any non-compliance immediately upon identification of a problem. For all public notice or customer notification requirements, OPERATOR shall prepare the public notice and provide it in writing to McBEE for review and acceptance. Upon acceptance by McBEE, McBEE will mail and/or publish the public notices to all customers.

3.2.2 If the non-compliance is a result of OPERATOR negligence or violation of the terms of this contract, mailings and other public notices related to the specific non-compliance event will be at the expense of the OPERATOR.

3.3 Water Supply Well and Treatment System O&M

3.3.1 OPERATOR shall employ sound utility practices to ensure continuous, dependable, and reliable operation of the McBEE well(s) and treatment systems. The OPERATOR must work to minimize the scope and length of any water service disruption.

3.3.2 Daily inspection of Well #1 (and Well #2 when operational). This will require in-person examination of the well and treatment system components to ensure proper and safe operation of these facilities, as required by DHEC.

3.4 Water Distribution/Storage O&M

3.4.1 All water mains are to be maintained in accordance with DHEC 61-58.4.D.

3.4.2 In the event that emergency repairs are required as a result of water main failure, all materials used shall be in accordance with DHEC 61-58.4.D.1; all work is to be completed in accordance with DHEC 61-58.4.D.11-16.

3.4.3 All water storage tanks are to be maintained in good working order. Daily visual inspection is required to ensure that water is not overflowing from the tank and to confirm that the tank is secure from any threats to public health, including but not limited to trespassing/climbing of the tank by unauthorized persons, vandalism, and excessive bird roosting/droppings.

3.5 Water Quality Monitoring

3.5.1 OPERATOR shall prepare any and all monthly and annual water quality monitoring reports according to DHEC regulations. OPERATOR is responsible for timely submission of these reports.

3.5.2 OPERATOR shall annually, before January 30th, file with DHEC a water use report of the quantities of groundwater withdrawn in accordance with DHEC 61-113.

3.5.3 OPERATOR shall prepare and submit to McBEE for approval an annual Consumer Confidence Report (CCR) outlining all water quality parameters measured in the McBEE water system. It is the responsibility of the OPERATOR to ensure that appropriate water sampling is maintained throughout the year to comply with all State and Federal requirements regarding the annual CCR.

4. EMERGENCY DUTIES OF THE CONTRACT OPERATOR

The following summarizes the tasks that will be performed by the OPERATOR during the emergency operation and maintenance of the water system and its administration:

4.1 Response to Service Interruptions and Emergencies

4.1.1 OPERATOR shall provide McBEE with a local or toll-free telephone number by which it can be contacted 24 hours a day, 7 days a week, for service requests. This number will connect McBEE to a local dispatcher or equivalent supervisor capable of estimating OPERATOR repair crew arrival time.

4.1.2 OPERATOR shall provide all necessary personnel, equipment, hardware, and tools necessary to repair and/or replace any component of the water system that causes an emergency situation to occur.

4.1.3 OPERATOR must respond to all emergency situations within a period of 24 hours or less. In the event of catastrophic failure to critical system components, time is of the essence and OPERATOR will make good faith efforts to respond as quickly as possible.

4.1.4 Emergency situations are defined as water main breaks, water supply failure, water tank low-level alarm, emergency power failure, as well as circumstances that can cause or will cause endangerment to public health, property damage, non-compliance with DHEC/EPA water quality regulations, and undesired/excessive loss of stored potable water due to a system malfunction.

4.1.5 Aesthetic water quality (taste, odor, cloudiness, sandiness, etc.) will be considered a non-emergency unless the problem persists for more than 24 hours. In the event that the aesthetic concerns persist more than 24 hours, OPERATOR will be required to correct the problem or provide written statement of the cause of the water quality problem(s) and the OPERATOR's justification for no action taken to remedy the issue.

4.1.6 Undue delays in the response time to any emergency will not be permitted. Any damages incurred as a result of negligence or slow response time will be the liability of the OPERATOR. This liability applies to the McBEE water system, private property, public health, enforcement actions taken by DHEC/EPA, or fines imposed by any other agency that has incurred damages as a result of OPERATOR performance.

4.1.7 OPERATOR shall maintain records of all service request calls, documenting the time of the call, time of service response, cause of request, and action taken (including time and date completed). Such records shall be retained for 2 years, and may be reviewed by McBEE upon reasonable notice.

5. LUMP SUM BID

The OPERATOR agrees to provide McBEE with the Scope of Services for Operation and Maintenance services, as described above, for a LUMP SUM BID of:_____ annually, payable in monthly installments.

A detailed audit of the documented costs used to determine the LUMP SUM BID will be conducted annually and reviewed by the OPERATOR and the TOWN OF McBEE. The results of this audit will be used to determine if any change in compensation is warranted for the Scope of Services provided in this RFP.

The OPERATOR agrees to the full performance of the Scope of Services for Operation and Maintenance services, as described in the **DESCRIPTION OF SERVICE REQUIREMENTS** contained herein.

The OPERATOR guarantees this LUMP SUM BID for a period of 90 days from the date of this BID PROPOSAL.

Operator Name:_____

Official Signature:_____

Print Name:_____

Title:_____

Witness:_____

Print Name:_____

MARZIANO & MCGOUGAN, P.A.

Town of McBee, South Carolina
Groundwater Well Testing & Evaluation
Well #1 and Well #2

PRELIMINARY ENGINEERING REPORT

DHEC Submittal - September 27, 2010

BLENDING ?
TWO SOURCES AVAILABLE ?
GAS CHLORINE IN MIDDLE OF TOWN
WELL #3 - IRRIGATION WELL
DISPOSAL OF RADIUM WASTE ?

a lot of options - what cost ?

ROLINA
SIONA
AL
3409
GINE
AN SEXTON
7-2010

RECEIVED
SEP 3 0 2010
WATER FACILITIES
PERMITTING DIVISION

Building Innovation

MARZIANO & MCGOUGAN, P.A.
consulting engineers

September 28, 2010

John Campolong, Jr., Mayor
Town of McBee
PO Box 248
McBee, SC 29101

RE: Preliminary Engineering Report - Groundwater Well Testing & Evaluation
DHEC Submittal
MM Project No. 38005

Dear Mr. Campolong:

Enclosed please find three (3) copies of the final report for the Groundwater Well Testing & Evaluation. Three copies of this report have been forwarded to Shawn Clark at DHEC for review and comment. Any comments raised by DHEC will be addressed and updated as needed.

M&M appreciates the opportunity to work with you on this important project. We are available to answer any questions you may have about this report, its findings, or the analytical tests conducted on Well #1 and Well #2. The information contained in this report should present sufficient evidence to DHEC that the Town of McBee is prepared to operate and maintain its potable water system in its entirety.

Please note that after DHEC approves of the roadmap for McBee to resume system operations, McBee should resume negotiations with interested parties to ORC the water supply and distribution system. Additionally, McBee should begin funding acquisition for the new potable water supply Well #3 and raw water main for connection to (and blending with) Well #1.

M&M would be pleased to assist McBee with either or both of these tasks. Please call if you have any questions about this information.

Sincerely,

Joseph W. McGougan, P.E.
Vice President

Marziano & McGougan, P.A.
1300 Second Avenue
Suite 211
Conway, SC 29526
Phone: 843-488-0124
Fax: 843-488-0129

Town of McBee – Water Supply Analysis
Groundwater Well Testing and Evaluation

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Town of McBee – Water Supply Analysis
Groundwater Well Testing and Evaluation

1.0 Project History and USDA's Requirements for Water System Transfer

One of the ultimate goals of this report is to empower the Town of McBee to resume daily operations and production at its own water facilities. The current contract arrangement with Alligator Rural Water (ARW) is a relationship that the Town has expressed interest in terminating for several years. In order for McBee to resume operational control over its water facilities, USDA, the owner of McBee's water system debt, established several conditions that must be met in order to support the transfer of O&M responsibilities back to McBee. The four (4) primary conditions laid out by USDA, summarized below, require McBee to prove its ability provide citizens with a safe and reliable drinking water supply that is operated in a safe and consistent manner.

1) Provide a clean audit report (completed)

2) Documentation of how McBee would replace ARW's provision of water supply:

   Included in the Scope of this Report
   a. Source water production
   b. Costs associated with obtaining source water

   Outside the Scope of this Report
   a. Proposed funding sources

3) Financial O&M projections after McBee replaces ARW's provision of O&M services:

   Completed in RFP for Contract Services, July 2008 (see Appendix 3)
   a. Source water production
   b. Projected costs/revenues for one fiscal year
   c. O&M responsibilities for the Town of McBee and a private contractor

4) Required engineering and DHEC approval requirements

   Included in the Scope of this Report
   a. Engineering recommendations and cost estimates
   b. Contact DHEC to determine the agency's opinion of permitting the existing Well #2 and continued operation of Well #1

   Outside the Scope of this Report
   a. Detailed engineering design and permitting of proposed facilities
   b. Detailed oversight to transfer permits and O&M responsibilities of water system from ARW to Town of McBee
   c. Detailed coordination with DHEC staff and permitting requirements

2.0 Project Description

Since the summer of 2009, the Town of McBee's primary water supply well (Well #1 located near town hall) has been shut down due to the presence of contaminants in the groundwater that were detected during routine monitoring tests. Alligator Rural Water (ARW) opted to disconnect Well #1 from McBee's distribution system. ARW currently supplies McBee and the surrounding service area through water produced and treated at ARW-owned wells located outside of the town limits. These wells, although adequate for the purpose of supplying McBee and adjacent areas with safe drinking water, have replaced McBee's normal water supply well (Well #1).

Since Well #1 has ceased operating, no water quality sampling has been conducted at Well #1 to further assess the amount of contaminants present in the groundwater at this location. Although low levels of contaminants were detected in the groundwater at Well #1, the levels were below the federal Maximum Contaminant Level (MCL) established by EPA for these contaminants, as reported by ARW to the Town of McBee. According to Town officials, the identity and levels of the detected contaminants in Well #1 were not made available to the Town of McBee.

McBee considers Well #1 to be an asset to the Town's water infrastructure because Well #1 is a centrally located supply point in the distribution system layout, and McBee desires to be supplied through this existing resource. McBee hired Marziano & McGougan, P.A. (M&M) to sample Well #1 to determine the extent of contaminants and recommend any treatment modifications at Well #1 that can remove these pollutants. Additionally, M&M sampled and made similar recommendations for Well #2, located outside of the town limits behind the A.O. Smith manufacturing facility. It should be noted that Well #2 is an inactive well that could serve as a redundant and/or supplemental groundwater supply for the Town of McBee.

3.0 Existing Water System Components

The McBee water system consists of approximately 80,000 linear feet (15 miles) of PVC water distribution mains located in southern Chesterfield County, South Carolina. McBee serves approximately 385 residential water connections; in addition, the system serves approximately 50 commercial customers. The average daily water demand is approximately 207,000 gallons per day (calendar year 2007). The system is normally supplied through the use of one (1) primary supply well with a pumping capacity of approximately 600 gallons per minute (gpm). Currently, McBee has one (1) primary interconnection with ARW that is the sole source of water supply to the Town. A secondary Well #2, located two miles from Town Hall behind the A.O. Smith manufacturing company, is currently off-line but could be used as a backup supply in the future. Additional water infrastructure can be summarized as follows:

- Water treatment plant at Well #1 site, consisting of a liquid lime feed system, bulk chemical storage, chlorine gas treatment, and appurtenant SCADA telemetry.
- One 75,000 gallon elevated storage tank located at the Well #1 site.
- One 250,000 gallon elevated storage tank located at A.O. Smith manufacturing

4.0 Definition of Contaminants: DBCP, EDB & Radium

For the purposes of this study, M&M was requested to take water quality samples for three parameters of interest: (1) DBCP (also known as 1,2-Dibromo-3-chloropropane), (2) EDB (also known as Ethylene bromide and 1,2-Dibromoethane), and (3) combined radium (Radium 226 + Radium 228). DBCP and EDB levels were to be determined at the request of the Town of McBee; radium levels were to be determined at the request of the DHEC.

4.1 DBCP (1,2-Dibromo-3-chloropropane)

DBCP, is a dense yellow organic liquid with a pungent odor. DBCP is used primarily as an unclassified nematocide for soil fumigation of cucumbers, summer squash, cabbage, cauliflower, carrots, snap beans, okra, aster, shasta daisy, lawn grasses and ornamental shrubs. Long-term consumption and exposure to drinking water with DBCP levels above the MCL may cause individuals to experience reproductive difficulties or an increased risk of cancer. The MCL for DBCP is 0.20 parts per billion (0.20 ppb) or 0.20 micrograms per liter (0.20 µg/L).

4.2 EDB (1,2-Dibromoethane)

EDB is regulated by EPA according to the Safe Drinking Water Act of 1974. EDB is a colorless, heavy synthetic organic liquid with a mildly sweet chloroform-like odor. EDB is mainly used in anti-knock gasoline mixtures, particularly aviation fuel. Long-term consumption and exposure to drinking water with EDB levels above the MCL may cause individuals to experience problems with the liver, stomach, reproductive system, or kidneys, and may have an increased risk of cancer. The MCL for EDB is 0.05 parts per billion (0.05 ppb) or 0.05 micrograms per liter (0.05 µg/L).

4.3 Total Combined Radium (Radium 226 + Radium 228)

Total combined radium (Radium 226 + Radium 228) is regulated by EPA according to the Safe Drinking Water Act of 1974. Most drinking water sources have very low levels of radioactive contaminants, or radionuclides. Most of these radionuclides are naturally occurring, although contamination of drinking water sources from human-made nuclear materials can also occur. Most radioactive contaminants are at sufficiently low levels to not be considered a public health concern. At higher levels, long-term consumption and exposure to drinking water with radionuclides (Radium 226 + Radium 228) above the MCL may cause an increased risk of cancer. The MCL for total combined radium (Radium 226 + Radium 228) is 5 pico-Curies, or 5 pCi.

5.0 Sampling and Testing Procedures

Sampling occurred on three separate occasions from March 25th to April 29th 2010.

5.1 First Sample – Well #1 & Well #2

On March 25th, 2010, water samples were taken at Well #1 and Well #2. Each well was flushed for several hours prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 110,000 gallons (metered) were flushed through Well #1 prior to taking the sample. Approximately 180,000 gallons (un-metered) were flushed through Well #2 prior to taking the sample. This large quantity of run-off water was necessary because both of these wells were shut down/inactive for a prolonged period.

GEL Laboratories provided 1.0 liter and 2.0 liter samples bottles that were filled and sealed for the radionuclides testing. GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of Marziano & McGougan, P.A. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis.

All of the 1.0 liter and 2.0 liter samples bottles for the radionuclides testing arrived in satisfactory condition and were processed for further analytical testing. However, the 40 mL sample vials for the organic chemicals testing (EDB, DBCP) arrived at GEL Laboratories above the normal testing temperature range of 0 to 6 degrees C. Therefore, these 40 mL samples were not utilized and were rejected at the request of the engineer. This was due to a combination of factors including the following: 24-hour period between taking of the samples and receipt by GEL Laboratories, warm air temperatures that led to the relatively quick melting of the blue ice blocks provided with the cooler, presence of additional large sample bottles in a small cooler that allowed no additional room for ice and sped up the melting process. Therefore, the samples had to be taken again in order to fill newly prepared 40 mL sample vials for the organic chemicals testing (EDB, DBCP).

5.2 Second Sample – Well #2 Only

On April 22nd, 2010, water samples were taken for the second time at Well #2. The well was flushed for approximately two hours prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 30,000 gallons (un-metered) were flushed through Well #2 prior to taking the sample. It should be noted that Well #1 could not be accessed during this time and was rescheduled one week later.

GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of M&M. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis. The 40 mL sample vials for the organic chemicals testing arrived in satisfactory condition and were processed for further analytical testing.

5.3 Third Sample – Well #1 Only

On April 29th, 2010, water samples were taken for the second time at Well #1. The well was flushed for approximately ten minutes prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 5,000 gallons (metered) were flushed through Well #1 prior to taking the sample. It should be noted that Well #1 could not be accessed during this time and was rescheduled one week later.

GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of M&M. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis. The 40 mL sample vials for the organic chemicals testing arrived in satisfactory condition and were processed for further analytical testing.

6.0 Analytical Results for First Sample

On April 23rd, 2010, analytical results were completed by GEL Laboratories for the First Sample. The analytical results were for both wells, radionuclides only.

Well #1 was found to have the following results:

Table 1 – Test Results for Well #1 (Radium)

Parameter	Result	% Uncertainty	Test Method
Radium 228	none detected	N/A	1
Radium 226	3.07 pCi	+/- 1.00	2
Radium 226	1.95 pCi	+/- 0.425	3

Please refer to page 3 of 12 of the April 23rd report from GEL Laboratories for the Well #1 results summary in its entirety. Well #2 was found to have the following results:

Table 2 – Test Results for Well #2 (Radium)

Parameter	Result	% Uncertainty	Test Method
Radium 228	none detected	N/A	1
Radium 226	1.04 pCi	+/- 0.644	2
Radium 226	0.767 pCi	+/- 0.256	3

Please refer to page 4 of 12 of the April 23rd report from GEL Laboratories for the Well #2 results summary in its entirety.

6.1 Water Quality of First Sample (Radium 226 + Radium 228)

The test results for Well #1 indicate that the total combined radium (Radium 226 + Radium 228) for Well #1 does not exceed 3.07 pCi, less than the MCL (5 pCi). Therefore, with respect to total combined radium, Well #1 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 60% of the MCL concludes that the Town of McBee should closely monitor the total combined radium at Well #1 to ensure that the MCL is not exceeded in any given year. DHEC and EPA require annual testing for total combined radium as part of the annual Consumer Confidence Report delivered to all customers of public water systems.

The test results for Well #2 indicate that the total combined radium (Radium 226 + Radium 228) for Well #2 does not exceed 1.04 pCi, less than the MCL (5 pCi). Therefore, with respect to total combined radium, Well #2 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 20% of the MCL concludes that the Town of McBee should closely monitor the total combined radium at Well #2 to ensure that the MCL is not exceeded in any given year.

7.0 Analytical Results for Second Sample

On June 9th, 2010, analytical results were completed by GEL Laboratories for the Second Sample. The analytical results were for Well #2 only, organic chemicals only.

Well #2 was found to have the following results:

Table 3 – Test Results for Well #2 (DBCP, EDB)

Parameter	Result	MCL	% Uncertainty	Test Method
DBCP (1,2-Dibromo-3-chloropropane)	0.0189 µg/L	0.200 µg/L	N/A	1
EDB (1,2-Dibromoethane)	none detected	0.050 µg/L	N/A	2

Please refer to page 3 of 9 of the June 9th report from GEL Laboratories for the Well #2 results summary in its entirety. It should be noted that the June 9th report replaces the May 5th report and analytical results due to a lab error.

7.1 Water Quality of Second Sample (DBCP)

The test results for Well #2 indicate that the DBCP level for Well #2 is 0.0189 µg/L (none detected), less than the MCL (0.200 µg/L). Therefore, with respect to DBCP, Well #2 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 9.5% of the MCL concludes that the Town of McBee should closely monitor the DBCP levels at Well #2 to ensure that the MCL is not exceeded in any given year. DHEC and EPA do not require annual testing for DBCP as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

7.2 Water Quality of Second Sample (EDB)

The test results for Well #2 indicate that the EDB level for Well #2 is zero (none detected), less than the MCL (0.050 µg/L). However, due to the level of refinement involved in the analytical work to test water samples for EDB, the possibility exists that the samples taken could have EDB levels below the "detectable limit" of 0.00596 µg/L. This would be a relatively small fraction of the MCL (approximately 11.9%) and is considered negligible for the purposes of this report due to the fact that no EDB was detected.

Therefore, with respect to EDB, Well #2 should be considered safe for drinking and other uses. The Town of McBee should closely monitor Well #2 to ensure that EDB does not become present in the groundwater in any given year. DHEC and EPA **do not** require annual testing for EDB as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

What is X ?

8.0 Analytical Results for Third Sample

On May 10th, 2010, analytical results were completed by GEL Laboratories for the Third Sample. The analytical results were for Well #1 only, organic chemicals only.

Well #1 was found to have the following results:

Table 4 –Test Results for Well #1 (DBCP, EDB)

Parameter	Result	MCL	% Uncertainty	Test Method
DBCP (1,2-Dibromo-3-chloropropane)	0.0224 µg/L	0.200 µg/L	N/A	1
EDB (1,2-Dibromoethane)	none detected	0.050 µg/L	N/A	2

Please refer to page 3 of 9 of the May 10th report from GEL Laboratories for the Well #1 results summary in its entirety.

8.1 Water Quality of Second Sample (DBCP)

The test results for Well #1 indicate that the DBCP level for Well #1 is 0.0224 µg/L, less than the MCL (0.200 µg/L). Therefore, with respect to DBCP, Well #1 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 11.2% of the MCL concludes that the Town of McBee should closely monitor the DBCP levels at Well #1 to ensure that the MCL is not exceeded in any given year. DHEC and EPA do not require annual testing for DBCP as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

8.2 Water Quality of Third Sample (EDB)

The test results for Well #1 indicate that the EDB level for Well #1 is zero (none detected), less than the MCL (0.050 µg/L). However, due to the level of refinement involved in the analytical work to test water samples for EDB, the possibility exists that the samples taken could have EDB levels below the "detectable limit" of 0.00627 µg/L. This would be a relatively small fraction of the MCL (approximately 12.5%) and is considered negligible for the purposes of this report due to the fact that no EDB was detected.

Therefore, with respect to EDB, Well #1 should be considered safe for drinking and other uses. The Town of McBee should closely monitor Well #1 to ensure that EDB does not become present in the groundwater in any given year. DHEC and EPA do not require annual testing for EDB as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

9.0 Summary of Water Quality Tests

Each of the two existing wells have been tested and found to contain zero to moderate levels of the three contaminants examined in this analysis. All three parameters of interest, if detected, were below the MCL for each well. The following table summarizes the results obtained from well samples taken between from March 25th to April 29th 2010:

Table 5 – Summary of Water Sample Results

Parameter	Well #1	Well #2
RADIUM		
Test Results	3.07	1.04
MCL	5.00	5.00
Is Sample OK?	YES	YES
%MCL	61%	21%
DBCP		
Test Results	0.0224	0.0189
MCL	0.200	0.200
Is Sample OK?	YES	YES
%MCL	11%	9.5%
EDB		
Test Results	ND	ND
MCL	0.050	0.050
Is Sample OK?	YES	YES
%MCL	0%	0%

10.0 DHEC Review of McBee's Water System Operations

On August 18th, 2010, the Town of McBee met with the regional staff of DHEC and M&M. in attendance for DHEC were Sean Clark, Paula Brown, and Mark Noble. In attendance for M&M were Brian Sexton and Joe McGougan. McBee's mayor, John Campolong, and water committee member Kemp McLeod, led the discussion regarding McBee's questions and concerns for resuming water system operations in the immediate future. In addition, DHEC viewed a copy of the PER prepared by M&M over the past several months and realized the amount of effort that has been put into the project to date.

After a brief description of the level of analysis performed to date and the existing groundwater quality in the area, DHEC outlined their requirements for McBee to resume operation of the Town's wells and distribution system. The following summary describes DHEC's requirements and McBee's roadmap to resume operational control of the Town's water system:

- DHEC will review the Town of McBee's request for operating permits strictly on a technical, financial, and managerial basis.

- McBee must be able to secure the services of a qualified ORC with all applicable certifications for a groundwater-supplied treatment system and all related distribution appurtenances (i.e. distribution, cross connections, etc.).
- McBee must be able to mitigate risks to groundwater quality concerns, particularly Well #1's future vulnerability for radium levels to increase above the MCL.
- Essentially, the Town must be able to have a secondary supply well that is capable of producing potable water that can be blended with Well #1 in the event that radium levels increase over time.
- Currently, Well #2 is capable of providing potable water in this fashion. However, Well #2 would have to be piped to Well #1 for blending and centralized treatment. Also, the capacity of Well #2 is too low to serve the long-term needs as a secondary supply well.
- The new irrigation well that is proposed for construction near the proposed recreation fields could serve as New Well #3. Similar to Well #2, this new well would have to be piped to Well #1 for blending and centralized treatment.
- Alternatives for radium disposal must be discussed and estimated costs included in this report.

11.0 Radium Reduction/Removal in Drinking Water

At this time, McBee does not exceed the MCL for radium. Although the levels of radium in Well #1 exceed 3.0 pCi, this could be a short term increase or an indication of long-term trends toward increasing radium levels that have been experienced in the region. Regardless, M&M does not anticipate that McBee will need to install radium removal measures in the foreseeable future. For discussion purposes, radium treatment options, and disposal requirements are described in this report per DHEC's request and future considerations.

Quality, operation and maintenance of equipment, dependability, and economy are the important factors to consider when dealing with unacceptable levels of radium. The list of potential solutions includes a new water source, blending water from more than one source, or removing radium by treatment. The first two are preferable options since they are less expensive and avoid waste disposal problems. Systems unable to employ these non-treatment measures must choose one of several treatment options. The available methods for removal of radium and the disposal of solid/liquid byproducts are outlined in the following sections.

11.1 Radium Treatment Options

11.1.1 Greensand Filtration

Greensand (or other manganese dioxide) media filters are typically used for the removal of manganese and iron, but are also capable of removing moderate levels of radium. Since the development of manganese greensand, thousands of systems large and small using this media have been installed throughout the United States and worldwide. Greensand has great flexibility as an oxidizing filter media. It has been incorporated into numerous industry and municipal applications at point-of-entry iron filters and has established itself as the one of the most popular technologies for iron and manganese removal from municipal and industrial well waters, as well as other waters containing these substances.

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Radium removal occurs as a result of adsorption to the manganese dioxide (hydrous) present in the filter; therefore, no oxidation occurs. Since manganese dioxide is a characteristic product of permanganate oxidation, it is important to use permanganate (as opposed to chlorine) to activate the greensand filter. Both hardness and pH are known to affect greensand performance. Iron (Fe_2+), manganese (Mn_2+), and other polyvalent cations are believed to compete for sorption sites on the MnO_2 in the filter and limit radium removal. The adsorption of radium by MnO_2 is also known to be a function of pH; a general improvement is observed as the pH increases from approximately 5 to 9. Generally, radium is removed from groundwater as a solid when the greensand filters are backwashed. These solids must be disposed in accordance with federal, state and local laws.

11.1.2 Co-precipitation Systems

Alternative technologies can also be installed as co-precipitation systems. These systems provide the additional benefit of iron and manganese removal. However, systems employing co-precipitation through Hydrous Manganese Oxide (HMO) require regular backwashing, resulting in backwash water with the radium discharge. In many municipal applications, liquid wastes from radium removal are allowed to be discharged to a sanitary sewer, provided the levels are less than federal, state and local limits (5.00 pCi). If the brine exceeds these levels, radium must be removed to compliant levels before the brine can be discharged to a sanitary sewer. This can be accomplished with the addition of an adsorption system to remove the radium from the brine, which may then be reused or discharged.

11.1.3 Ion Exchange

For individual homeowners, one fairly inexpensive treatment method is ion exchange which is used in home water softeners. This process removes approximately 90% of radium. The ion exchange process for radium removal is similar to the process for hardness removal. In this process, sodium (or hydrogen) ions are exchanged for radium. Once the ion exchange resins are exhausted, the resins need to be regenerated with common salt or a dilute acid. In some cases, however, the ion exchange process can cause the undesired effect of adding sodium to the treated water, a factor those on low sodium diets also should consider before installing a softener. The exchange capacity of the resin and the amount of regeneration liquid required are the factors to be considered in the ion exchange process. The regenerant solution and resin wash-water contain dissolved contaminants that require disposal in a safe manner.

11.1.4 Lime-Soda Ash Softening

Another possible treatment method is lime-soda ash softening. Laboratory studies have demonstrated an average 80% removal. In this process, lime and soda are added to water and combine chemically with radium to convert it into insoluble compound. This insoluble compound precipitates as a sludge, which can be removed from water by gravity settling and disposed of in a safe manner.

11.1.5 Reverse Osmosis

Reverse Osmosis (RO) can remove about 90% of radium. With RO, the contaminated water is forced through a semi-permeable membrane that will not allow dissolved substances to pass through. Radium is removed from water by passing it through the membrane. Pumping pressure is an important design consideration of this process. The reject solution from this process contains high levels of dissolved solids and needs special disposal considerations.

11.2 Radium Disposal Requirements

As described above, all treatment processes produce liquid and/or solid wastes (sludge) containing radium in varied concentrations. These treatment byproducts must be disposed of properly and safely.

11.2.1 Solid Waste Disposal

The list of viable sludge disposal methods available to McBee includes land application and sanitary landfill disposal. Land application of sludge on farmlands for soil neutralization is an efficient method of disposal that is also a way to utilize the benefit of nutrients present in the sludge. This practice will require ongoing monitoring to ensure that conditioned soils do not exceed safe "inert" limits of radium 0.40 pCi/g in total concentration. Long-term requirements that are likely from this disposal method include the blending of high and low concentration sludge, modifying application rates and frequency, alternating fields of application and limiting the number of applications on a specific field. In addition, producers can dispose of their sludge in a local landfill provided it meets the landfill's waste acceptance criteria. Each of these alternatives is more cost effective than disposing of the sludge in a licensed low-level radioactive waste disposal facility, which will not be necessary unless the sludge waste exceeds 50-200 pCi/g in total concentration.

11.2.2 Liquid Waste Disposal

Liquid disposal methods are limited to discharge to an existing sanitary sewer collection system for dilution, treatment and disposal. The ultimate disposal for liquid wastes can be land application or an existing NPDES surface water discharge. If the Town of McBee constructs a public sewer system within the Town, the liquid waste stream could be discharged into the new collection system, assuming the bulk treatment provider approves of this practice and can handle the increased concentration of radium waste in its facilities.

For this analysis, it is assumed that McBee would secure a contract for discharge of liquid waste to one of the existing sanitary sewer systems in the region. The preferred option would be to discharge to the existing sanitary sewer pump station behind McBee High School. This pump station transfers domestic wastewater to the Town of Hartsville through a forcemain owned by Alligator Rural Water. Other alternatives include the discharge of liquid waste into the proposed regional sewer system recently approved by DHEC for land application near McBee, or pump directly to Hartsville via newly installed forcemain owned by McBee.

11.2.3 Licensed Disposal – Low Level Radioactive Waste

If radium waste (liquid or sludge) exceeds 50 pCi, advanced measures are necessary to adequately and safely dispose of the treatment byproducts. It is not anticipated that groundwater in McBee will require this level of treatment at any time during the service life of the water system. However, it is important to note that the local nuclear power facility, H.B. Robinson Nuclear Plant, is located less than 10 miles from McBee and may be able to offer an economical disposal option that is not typically available to systems of this scale.

12.0 Immediate Water System Needs

12.1 Option 1 - Well #1 Startup + Blending with New Well #3

In order for McBee to achieve its ultimate goal of resuming control of the O&M and supply of the Town's water system, it is recommended that Well #1 be placed back into service. Option 1 considers the startup of existing Well #1 combined with the construction of New Well #3 to achieve blending from these two sources.

Because Well #1 has tested positive for radium and DBCP, there are several considerations that McBee must weigh before attempting to resume water production at Well #1:

- Public health and perception of the presence of known contaminant levels in the ground water supply
- Ability for ARW to supply "cleaner" water supplied from other wells in the surrounding area
- Future vulnerability for radium levels in Well #1 to increase above the MCL
- Future vulnerability for DBCP levels in Well #1 to increase above the MCL
- Permitting and permanent filtration requirements for DHEC approval
- Construction and engineering costs to place this well back into service

At this time, McBee does not exceed the MCL for radium at Well #1. Although the levels of radium in Well #1 exceed 3.0 pCi, this could be a short term increase or an indication of long-term trends toward increasing radium levels that have been experienced in the region. Regardless, M&M does not anticipate that McBee will need to install radium removal measures in the foreseeable future.

12.1.1 New Well #3

As a secondary water supply well, it is recommended that McBee pursue construction of New Well #3. It is recommended that New Well #3 be piped to the Well #1 site for blending in a common pipe header. Therefore, all water entering the distribution system would achieve some level of contaminant reduction, dependent upon the water quality of Well #1 and the additional well. M&M recommends the construction of New Well #3 near the recreation fields located in southeastern McBee. New Well #3 would serve the dual purpose of irrigation for the proposed recreational fields and McBee's secondary (redundant) supply source in the event that ARW terminates the supply agreement with the Town altogether.

It is highly recommended that New Well #3 be pumped back to Town Hall and connected into Well #1 treatment facilities (approximately 4,000 linear feet). Additionally, it is highly recommended that a permanent emergency generator be placed at this site. It is possible that after construction is complete on this new well, subsequent testing could be positive for radium or DBCP/EDB. Therefore, McBee must weigh the same considerations before construction of a new water production well.

The recommended equipment could be installed at the existing well site with few modifications other than the installation of the raw water main, onsite piping, and minor telemetry/control modifications. **The proposed construction, design, and inspection costs for Option 1 are $296,340 as summarized in Appendix 2.**

12.2 Option 2 - Well #1 Startup + Blending with New Well #2

Option 2 considers the startup of existing Well #1 combined with the rehabilitation of Well #2 to achieve blending from these two sources. In the event that construction of New Well #3 yielded a well that was not productive or had serious water quality problems, Well #2 could be utilized as the secondary supply to McBee.

However, Well #2 must be rehabilitated and placed back into service in order to serve as McBee's secondary (redundant) supply source in the event that ARW terminates the supply agreement with the Town altogether. For the long-term use of Well #2 as a redundant supply, McBee should consider the following measures to treat groundwater produced at Well #2:

- Make upgrades to electrical wiring and telemetry
- Construct permanent generator on site
- Do not construct treatment facilities at Well #2
- Construct a 6" raw (untreated) water main back to Town Hall and pipe into Well #1 treatment facilities (approximately 11,000 linear feet)

Consolidation of the treatment facilities at Well #1 makes sense from an engineering, security, and financial perspective. **The proposed construction, design, and inspection costs for Option 2 are $346,250 as summarized in Appendix 2.**

13.0 Potential Future Needs

In the event that water quality becomes an issue at Well #1, M&M has reviewed the best available technology for treating the groundwater at the current contaminant levels and potential future levels (exceeding the MCL for each contaminant). The best available technology for the treatment of radium would be the use of greensand filters. Greensand is a special media that is placed in a dedicated pressure filter that is constructed at the well site and piped into the regular/permanent treatment process. Greensand would be extremely effective to significantly reduce or remove radium from the groundwater at Well #1.

The best available technology that would be used for the removal of DBCP (and EDB) would be pressure filtration using activated carbon. Similar to the greensand filtration process, carbon media is placed in a dedicated pressure filter that is constructed at the well site and piped into the regular/permanent treatment process. Activated carbon would be extremely effective to significantly reduce or remove all traces of DBCP (and EDB) organic compounds from the groundwater at Well #1. The activated carbon and the greensand would have to be regenerated over time and therefore would increase the operational costs for water production at Well #1.

The recommended equipment could be installed at the existing well site with few modifications other than the installation of the equipment, onsite piping, and minor telemetry/control modifications. The proposed construction, design, and inspection costs to implement the potential future treatment enhancements at Well #1 are $296,250 as summarized in Appendix 2.

What does this do to rates?

14.0 Blended Water Quality

For Option 1, Well #1 would be blended with water from the New Well #3 which has not been constructed. For this analysis, it is assumed that New Well #3 will have similar water quality to existing Well #1 and Well #2. Therefore, the radium and DBCP levels for New Well #3 are estimated to be the average of Well #1 and Well #2. Additionally, it is assumed that New Well #3 will have a pumping capacity equal to Well #1 (600 gpm max pumping rate for 12 hours). For Option 2, Well #1 would be blended with water from Well #2. The table below indicates that the groundwater quality is virtually identical for Option 1 and Option 2. The key assumption is the groundwater quality at New Well #3 which must be verified after construction.

How were assumptions made?

Table 6 – Estimated Blended Water Quality

OPTION 1			
Parameter	Well #1	New Well #3	Blended Water Quality
Pumping Rate (gpm)	600	600	1,200
RADIUM	3.07	2.06	2.56
DBCP	0.0224	0.0207	0.0216
EDB	ND	ND	0

OPTION 2			
Parameter	Well #1	Well #2	Blended Water Quality
Pumping Rate (gpm)	600	200	800
RADIUM	3.07	1.04	2.56
DBCP	0.0224	0.0189	0.0215
EDB	ND	ND	0

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15.0 Recommendations & Conclusions

Once DHEC has reviewed all materials and found that the Town of McBee is able to maintain satisfactory compliance with regard to a technical, financial, and managerial basis, McBee should startup and utilize Well #1 as a primary water source. For the secondary water supply well, it is recommended that McBee pursue Option 1, construction of New Well #3 and blending groundwater from these two wells at the existing Well #1 site.

It is highly recommended that New Well #3 be pumped back to Town Hall and connected into Well #1 treatment facilities (approximately 4,000 linear feet). Additionally, it is highly recommended that a permanent emergency generator be placed at the New Well #3 site. It is possible that after construction is complete on this new well, subsequent testing could be positive for radium or DBCP/EDB. Therefore, blending of groundwater from Well #1 and New Well #3 should be incorporated into the system design for immediate use upon start-up.

The recommended equipment could be installed at the existing Well #1 site with few modifications other than the installation of the raw water main, onsite piping, and minor telemetry/control modifications. The proposed construction, design, and inspection costs for Option 1 are $296,340 as summarized in Appendix 2.

In the unlikely event that initial groundwater quality/quantity is unsatisfactory from New Well #3, Well #2 should be rehabilitated, placed back into service as a secondary supply well, and connected to Well #1 for blending and treatment at a single location. Additionally, in the event that future water quality tests indicate appreciable fluctuations in the levels of radium in Well #1, #2, or #3, McBee should take the following actions:

1) Begin consideration of the need to design and construct the water treatment enhancements at Well #1 as described in **Section 13.0, Potential Future Needs.**
2) Begin discussions with sewer treatment providers to accept the discharge of liquid process waste to existing sanitary sewers.

Because McBee has expressed a high interest in pursuing public sanitary sewer in Town, the discharge of liquid process waste could be transferred to the McBee sewer collection system in the future.

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APPENDIX 1

Well Test Data

- April 23rd, 2010: Well #1 and Well #2
- May 10th, 2010: Well #1 Only
- June 9th , 2010: Well #2 Only

GEL Laboratories LLC

a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
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www.gel.com

April 23, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 250074

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on March 26, 2010. This original data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 250074 GEL Work Order: 250074

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: April 23, 2010

Client Sample ID: Special Sample@ Wellhead #1A,1B,1C
Sample ID: 250074001
Matrix: Ground Water
Collect Date: 25-MAR-10 10:30
Receive Date: 26-MAR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Minimum Detection Level
Required Detection Limit

Parameter	Qualifier	Result	Uncertainty	DL	RL	Units	DF	Analyst Date	Time	Batch	Method
Rad Gas Flow Proportional Counting											
GFPC, Ra228, Liquid "As Received"											
Radium-228	U	(ND)	+/-1.18	1.81	3.00	pCi/L		JXC5 04/06/10	1120	970500	1
GFPC, Total Alpha Radium, Liquid "As Received"											
Total Alpha Radium		(3.07)	+/-1.00	0.896	1.00	pCi/L		JXC5 03/31/10	1023	970161	2
Rad Radium-226											
Lucas Cell, Ra226, liquid "As Received"											
Radium-226		(1.95)	+/-0.425	0.306	1.00	pCi/L		KSD1 04/14/10	1435	972456	3

< 5, samples O.K.

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 904.0/SW846 9320 Modified	
2	EPA 900.1 Modified	
3	EPA 903.1 Modified	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Barium-133 Tracer	GFPC, Ra228, Liquid "As Received"			77.4	(15%-125%)
Barium Carrier	GFPC, Total Alpha Radium, Liquid "As Received"			87.1	(25%-125%)

Radium 226 + Radium 228 (combined MCL) = 5pCi/L

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GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: April 23, 2010

Client Sample ID: Special Sample@ Wellhead #2A,2B,2C
Sample ID: 250074003
Matrix: Ground Water
Collect Date: 25-MAR-10 11:00
Receive Date: 26-MAR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	Uncertainty	DL	RL	Units	DF	Analyst	Date	Time	Batch	Method
Rad Gas Flow Proportional Counting												
GFPC, Ra228, Liquid "As Received"												
Radium-228	U	ND	+/-1.03	1.63	3.00	pCi/L		JXC5	04/06/10	1120	970500	1
GFPC, Total Alpha Radium, Liquid "As Received"												
Total Alpha Radium		1.04	+/-0.644	0.781	1.00	pCi/L		JXC5	03/31/10	1023	970161	2
Rad Radium-226												
Lucas Cell, Ra226, liquid "As Received"												
Radium-226		0.767	+/-0.256	0.193	1.00	pCi/L		KSD1	04/14/10	1450	972456	3

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 904.0/SW846 9320 Modified	
2	EPA 900.1 Modified	
3	EPA 903.1 Modified	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Barium-133 Tracer	GFPC, Ra228, Liquid "As Received"			89.3	(15%-125%)
Barium Carrier	GFPC, Total Alpha Radium, Liquid "As Received"			80.3	(25%-125%)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: April 23, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 250074

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
Rad Gas Flow										
Batch 970161										
QC1202083174 250074001 DUP										
Total Alpha Radium		3.07		3.83	pCi/L	22.1		(0% - 100%)	JXC5	03/31/10 10:13
	Uncertainty	+/-1.00		+/-1.05						
QC1202083176 LCS										
Total Alpha Radium	362			392	pCi/L		108	(75%-125%)		03/31/10 09:01
	Uncertainty			+/-9.60						
QC1202083173 MB										
Total Alpha Radium			U	0.152	pCi/L					03/31/10 10:13
	Uncertainty			+/-0.264						
QC1202083175 250074001 MS										
Total Alpha Radium	1090	3.07		1140	pCi/L		105	(75%-125%)		03/31/10 09:01
	Uncertainty	+/-1.00		+/-29.0						
Batch 970500										
QC1202084049 249905001 DUP										
Radium-228		3.20		3.04	pCi/L	5.08		(0% - 100%)	JXC5	04/06/10 11:19
	Uncertainty	+/-1.25		+/-1.27						
QC1202084051 LCS										
Radium-228	10.7			10.7	pCi/L		99.4	(75%-125%)		04/06/10 11:19
	Uncertainty			+/-1.31						
QC1202084048 MB										
Radium-228			U	0.192	pCi/L					04/06/10 11:24
	Uncertainty			+/-0.308						
QC1202084050 249905001 MS										
Radium-228	25.1	3.20		27.2	pCi/L		95.4	(75%-125%)		04/06/10 11:19
	Uncertainty	+/-1.25		+/-3.04						
Rad Ra-226										
Batch 972456										
QC1202088828 250083002 DUP										
Radium-226		0.511	U	0.173	pCi/L	98.8		(0% - 100%)	KSD1	04/14/10 17:05
	Uncertainty	+/-0.243		+/-0.146						
QC1202088831 LCS										
Radium-226	24.2			22.9	pCi/L		94.6	(75%-125%)		04/14/10 17:40
	Uncertainty			+/-1.36						
QC1202088827 MB										
Radium-226			U	0.126	pCi/L					04/14/10 17:05
	Uncertainty			+/-0.128						
QC1202088829 250083002 MS										
Radium-226	24.2	0.511		18.7	pCi/L		75.3	(75%-125%)		04/14/10 17:05
	Uncertainty	+/-0.243		+/-1.17						
QC1202088830 250083002 MSD										
Radium-226	121	0.511		117	pCi/L	145*	96.1	(0%-20%)		04/14/10 17:05
	Uncertainty	+/-0.243		+/-7.03						

QC Summary

Workorder: 250074

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time

Notes:
The Qualifiers in this report are defined as follows:

**	Analyte is a surrogate compound
<	Result is less than value reported
>	Result is greater than value reported
A	The TIC is a suspected aldol-condensation product
B	For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
BD	Results are either below the MDC or tracer recovery is low
C	Analyte has been confirmed by GC/MS analysis
D	Results are reported from a diluted aliquot of the sample
F	Estimated Value
H	Analytical holding time was exceeded
J	Value is estimated
M	M if above MDC and less than LLD
M	Matrix Related Failure
N/A	RPD or %Recovery limits do not apply.
ND	Analyte concentration is not detected above the detection limit
NJ	Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
R	Sample results are rejected
U	Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.
UI	Gamma Spectroscopy--Uncertain identification
UJ	Gamma Spectroscopy--Uncertain identification
X	Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
Y	QC Samples were not spiked with this compound
^	RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.
h	Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

Page: 1 of 2

Project #:

GEL Quote #: GELP10-0258

COC Number (1):

PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number: 250074

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, P.A. Phone #: 843 488-0124

Project/Site Name: Town of McBee Well #1 Fax #: 843 488-0129

Address: 1300 Second Ave. Suite 211 Conway, SC 29526

Collected by: Brian Sexton, PE Send Results To: Brian Sexton, PE

Page 8 of 12

Sample Analysis Requested (5) (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code (2)	Field Filtered (3)	Sample Matrix (4)	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Wellhead #1 A	3-25-10	10:30	N	N	GW	N	N	1		Note: extra sample is required for sample specific QC
1B	3-25-10							1		
1C	3-25-10							1		
1D	3-25-10							1		
1E	3-25-10							1		
1F	3-25-10	10:35						1		

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge)

Fax Results: Yes / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Sample Collection Time Zone: (Eastern) Central Mountain Pacific Other

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards

A sample is in 2L bottle. B+C are in 1L bottles. D,E,F are in 40mL vials.

Chain of Custody Signatures

	Relinquished By (signed)	Date	Time	Received by (signed)	Date	Time
1		3-25-2010	3:00pm		3-26-10	1030
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson

Method of Shipment: UPS overnight Date Shipped: 3-25-2010

Airbill #:

Airbill #:

For Lab Receiving Use Only

Custody Seal Intact? YES NO

Cooler Temp: C

1.) Chain of Custody Number = Client Determined

2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite

3.) Field Filtered: For liquid matrices, Indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.

4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal

5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).

6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

00348

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/ARCOC/Work Order: 250074
Received By: Greg Tyler	Date Received: 3-26-10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		X	Maximum Counts Observed*: 40 cpm
Classified Radioactive II or III by RSO?		X	
COC/Samples marked containing PCBs?		X	
Shipped as a DOT Hazardous?		X	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		X	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	X			Circle Applicable: seals broken; damaged container; leaking container; other (describe)
2	Samples requiring cold preservation within 0 ≤ 6 deg. C?		X		Preservation Method: Ice bags; blue ice; dry ice; (none); other (describe) 19°C
3	Chain of custody documents included with shipment?	X			
4	Sample containers intact and sealed?	X			Circle Applicable: seals broken; damaged container; leaking container; other (describe)
5	Samples requiring chemical preservation at proper pH?	X			Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?			X	Sample ID's and containers affected: Well #1E and Well #1F affected.
7	Are Encore containers present?			X	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	X			Id's and tests affected:
9	Sample ID's on COC match ID's on bottles?	X			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	X			Sample ID's affected:
11	Number of containers received match number indicated on COC?	X			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	X			

Comments:

UPS #
1Z 385 ER8 03 9174 2434

PM (or PMA) review: Initials MS Date 3/31/10

Page: 2 of 2
Project #:
GEL Quote #: GELP10-0258
COC Number [1]:
PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number:

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, P.A. Phone #: 843488-0124
Project/Site Name: Town of McBee Well #2 Fax #: 843 488-0129
Address: 1300 Second Ave. Suite 211 Conway, SC 29526
Collected by: Brian Sexton, PE Send Results To: Brian Sexton, PE

Page 10 of 12

Sample Analysis Requested [5] (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code [2]	Field Filtered [3]	Sample Matrix [4]	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Wellhead #2A	3-25-10	11:00	N	N	GW	N	N	1		Note: extra sample is required for sample specific QC
" 2B	3-25-10							1		
" 2C	3-25-10							1		
" 2D	3-25-10							1		
" 2E	3-25-10							1		
" 2F	3-25-10	11:05						1		

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge)
Fax Results: (Yes) / No
Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Sample Collection Time Zone: (Eastern) Central Mountain Pacific Other

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards
A sample is in 2L bottle. B+C are in 1L bottles. D, E, F are in 40mL vials.

Chain of Custody Signatures

Relinquished By (Signed)	Date	Time	Received by (signed)	Date	Time
1 Brian Sexton	3-25-10	3:00pm	1 [illegible]	3-26-10	1030
2			2		
3			3		

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS overnight Date Shipped: 3-25-2010
Airbill #:
Airbill #:

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: C

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

00350

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/ARCOC/Work Order: 250074 %
Received By: Greg Tyler	Date Received: 3-26-10

Suspected Hazard Information	Yes	No
COC/Samples marked as radioactive?		X
Classified Radioactive II or III by RSO?		X
COC/Samples marked containing PCBs?		X
Shipped as a DOT Hazardous?		X
Samples identified as Foreign Soil?		X

*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.

Maximum Counts Observed*: 40 cpm

Hazard Class Shipped: UN#:

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	X			Circle Applicable: seals broken; damaged container; leaking container; other (describe)
2	Samples requiring cold preservation within 0 ≤ 6 deg. C?		X		Preservation Method: ice bags; blue ice; dry ice; (none); other (describe) 19°C
3	Chain of custody documents included with shipment?	X			
4	Sample containers intact and sealed?	X			Circle Applicable: seals broken; damaged container; leaking container; other (describe)
5	Samples requiring chemical preservation at proper pH?	X			Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?			X	Sample ID's and containers affected: Well # 2D affected.
7	Are Encore containers present?			X	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	X			Id's and tests affected:
9	Sample ID's on COC match ID's on bottles?	X			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	X			Sample ID's affected:
11	Number of containers received match number indicated on COC?	X			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	X			

Comments:

UPS #

1Z 385 ER8 03 9174 2434

PM (or PMA) review: Initials MS Date 3/31/10

List of current GEL Certifications as of 23 April 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California - NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida - NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois - NELAP	200029
Indiana	C-SC-01
Kansas - NELAP	E-10332
Kentucky	90129
Louisiana - NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey - NELAP	SC002
New Mexico	FL NELAP E87156
New York - NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania - NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas - NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah - NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

GEL Laboratories LLC

a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.556.8171 F 843.766.1178

www.gel.com

May 10, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 252016

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on April 30, 2010. This original data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 – (843) 556-8171 – www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 252016 GEL Work Order: 252016

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

J Value is estimated

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by Julie Robinson

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: May 10, 2010

Client Sample ID: Special Sample @ Well #1-2A,2B,2C
Sample ID: 252016001
Matrix: Ground Water
Collect Date: 29-APR-10 09:52
Receive Date: 30-APR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	DL	RL	Units	DF	AnalystDate	Time	Batch	Method
504.1/8011 Analysis of EDB/DBCP										
EDB, DBCP "As Received" — EDB										
1,2-Dibromoethane	U	ND (zero)	0.00627	0.0209	ug/L	1	TXK2 05/04/10	1417	980754	1
1,2-Dibromo-3-chloropropane		0.0224	0.00627	0.0209	ug/L	1	TXK2 05/04/10	1417	980754	2

← DBCP

The following Prep Methods were performed

parts per billion

Method	Description	Analyst	Date	Time	Prep Batch
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/04/10	1233	980752

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 504.1	
2	EPA 504.1	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Bromofluorobenzene	EDB, DBCP "As Received"	4.48 ug/L	3.73	120	(76%-124%)

MCL for DBCP = 0.20 ppb
MCL for EDB = 0.05 ppb

Well #1 Results Summary

EDB result indicates that zero(0) is present. O.K. ✓

DBCP result = 0.0224 which is < MCL

DBCP is present in Well#1 : 0.0224 < 0.200 O.K. ✓
(below MCL)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: May 10, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 252016

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
504.1/8011 Analysis of EDB/DBCP										
Batch 980754										
QC1202108851 LCS										
1,2-Dibromo-3-chloropropane	0.200			0.218	ug/L		109	(70%-130%)	TXK2	05/04/10 13:40
1,2-Dibromoethane	0.200			0.224	ug/L		112	(70%-130%)		
**Bromofluorobenzene	3.57			4.35	ug/L		122	(76%-124%)		
QC1202108852 LCSD										
1,2-Dibromo-3-chloropropane	0.200			0.225	ug/L	3.26	113	(0%-20%)		05/04/10 13:52
1,2-Dibromoethane	0.200			0.228	ug/L	1.58	114	(0%-20%)		
**Bromofluorobenzene	3.57			4.40	ug/L		123	(76%-124%)		
QC1202108850 MB										
1,2-Dibromo-3-chloropropane			U	ND	ug/L					05/04/10 13:27
1,2-Dibromoethane			U	ND	ug/L					
**Bromofluorobenzene	3.57			4.26	ug/L		119	(76%-124%)		

Notes:
The Qualifiers in this report are defined as follows:

- ** Analyte is a surrogate compound
- < Result is less than value reported
- > Result is greater than value reported
- A The TIC is a suspected aldol-condensation product
- B For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
- C Analyte has been confirmed by GC/MS analysis
- D Results are reported from a diluted aliquot of the sample
- E Organics--Concentration of the target analyte exceeds the instrument calibration range
- F Estimated Value
- H Analytical holding time was exceeded
- J Value is estimated
- M Matrix Related Failure
- N Organics--Presumptive evidence based on mass spectral library search to make a tentative identification of the analyte (TIC). Quantitation is based on nearest internal standard response factor
- N/A RPD or %Recovery limits do not apply.
- ND Analyte concentration is not detected above the detection limit
- NJ Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
- P Organics--The concentrations between the primary and confirmation columns/detectors is >40% different. For HPLC, difference is also <70%
- R Sample results are rejected

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Workorder: 252016

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date	Time

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

X Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier

Y QC Samples were not spiked with this compound

^ RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.

h Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

Page: _____ of _____
Project #: GELP10-0258
GEL Quote #: _____
COC Number [1]: _____
PO Number: _____

GEL Chain of Custody and Analytical Request

GEL Work Order Number: 252011

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGowan, P.A. Phone #: 843 488 0124
Project/Site Name: Town of McBee Well #1 Fax #: 843 488 0129
Address: 1300 Second Ave; Suite 211; Conway, SC 29526
Collected by: Brian Sexton P.E. Send Results To: Brian Sexton P.E.

Page 1 of 1

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code [4]	Field Filtered [2]	Sample Matrix [1]	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	Sample Analysis Requested [5] (Fill in the number of containers for each test)	← Preservative Type (6)	Comments
Special Sample @ Well #1 -2A	4-29-2010	9:50A	N	N	GW	N	N	1			Note: extra sample is required for sample specific QC
" -2B	4-29-2010	9:51A	N	N	GW	N	N	1			
" -2C	4-29-2010	9:52A	N	N	GW	N	N	1			

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: Yes / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards

Sample Collection Time Zone: Eastern Central Mountain Pacific Other _____

Chain of Custody Signatures

	Relinquished By (Signed)	Date	Time	Received by (signed)	Date	Time
1	Brian Sexton	4-29-2010	1:00PM	B. Taylor	4/30/10	10:30
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS overnight Date Shipped: 4-29-2010
Airbill #: _____
Airbill #: _____

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: _____ C

00359

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: Marziano & McGowan, PA	SDG/AR/COC/Work Order: 252016
Received By:	Date Received: 4/30/10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		✓	Maximum Counts Observed*: cpm 20
Classified Radioactive II or III by RSO?		✓	
COC/Samples marked containing PCBs?		✓	
Shipped as a DOT Hazardous?		✓	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		✓	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
2	Samples requiring cold preservation within (0 ≤ 6 deg. C)?	✓			Preservation Method: (Ice bags) Blue ice Dry ice None Other (describe) 10
2a	Daily check performed and passed on IR temperature gun?	✓			Temperature Device Serial #: 510500004 Secondary Temperature Device Serial # (If Applicable):
3	Chain of custody documents included with shipment?	✓			
4	Sample containers intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
5	Samples requiring chemical preservation at proper pH?		✓		Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?	✓			Sample ID's and containers affected:
7	Are Encore containers present?			✓	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	✓			ID's and tests affected:
9	Sample ID's on COC match ID's on bottles?	✓			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	✓			Sample ID's affected:
11	Number of containers received match number indicated on COC?	✓			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	✓			
13	Carrier and tracking number.	✓			Circle Applicable: FedEx Air FedEx Ground (UPS) Field Services Courier Other 1238 5ER8 0392 8065 97

Comments (Use Continuation Form if needed):

PM (or PMA) review: Initials _____ Date 4/30/10 Page 1 of 1

List of current GEL Certifications as of 10 May 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California - NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida - NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois - NELAP	200029
Indiana	C-SC-01
Kansas - NELAP	E-10332
Kentucky	90129
Louisiana - NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey - NELAP	SC002
New Mexico	FL NELAP E87156
New York - NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania - NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas - NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah - NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

GEL Laboratories LLC
a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.556.8171 F 843.766.1178

www.gel.com

June 09, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 251657

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on April 23, 2010. This revised data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 251657 GEL Work Order: 251657

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

J Value is estimated

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by Julie Robinson

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: June 9, 2010

Client Sample ID: Special Sample @ Well #2A, 2B, 2C
Sample ID: 251657001
Matrix: Ground Water
Collect Date: 22-APR-10 10:17
Receive Date: 23-APR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	DL	RL	Units	DF	AnalystDate	Time	Batch	Method
504.1/8011 Analysis of EDB/DBCP										
EDB, DBCP "As Received"										
1,2-Dibromo-3-chloropropane	J	0.0189	0.00596	0.0199	ug/L	1	TXK2 04/30/10	1344	979837	1
1,2-Dibromoethane	U	ND	0.00596	0.0199	ug/L	1				

The following Prep Methods were performed

Method	Description	Analyst	Date	Time	Prep Batch
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	04/30/10	1200	979836
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/04/10	1233	980752
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/20/10	1300	986426

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 504.1	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Bromofluorobenzene	EDB, DBCP "As Received"	3.60 ug/L	3.55	101	(76%-124%)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: June 9, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 251657

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
504.1/8011 Analysis of EDB/DBCP										
Batch 979837										
QC1202106609 LCS										
1,2-Dibromo-3-chloropropane	0.200			0.192	ug/L		95.8	(70%-130%)	TXK2	04/30/10 13:19
1,2-Dibromoethane	0.200			0.196	ug/L		98	(70%-130%)		
**Bromofluorobenzene	3.57			3.64	ug/L		102	(76%-124%)		
QC1202106610 LCSD										
1,2-Dibromo-3-chloropropane	0.200			0.192	ug/L	0.0418	95.8	(0%-20%)		04/30/10 13:31
1,2-Dibromoethane	0.200			0.194	ug/L	0.881	97.2	(0%-20%)		
**Bromofluorobenzene	3.57			3.66	ug/L		102	(76%-124%)		
QC1202106607 MB										
1,2-Dibromo-3-chloropropane			U	ND	ug/L					04/30/10 13:06
1,2-Dibromoethane			U	ND	ug/L					
**Bromofluorobenzene	3.57			3.59	ug/L		100	(76%-124%)		

Notes:
The Qualifiers in this report are defined as follows:

- ** Analyte is a surrogate compound
- < Result is less than value reported
- > Result is greater than value reported
- A The TIC is a suspected aldol-condensation product
- B For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
- C Analyte has been confirmed by GC/MS analysis
- D Results are reported from a diluted aliquot of the sample
- E Organics--Concentration of the target analyte exceeds the instrument calibration range
- F Estimated Value
- H Analytical holding time was exceeded
- J Value is estimated
- M Matrix Related Failure
- N Organics--Presumptive evidence based on mass spectral library search to make a tentative identification of the analyte (TIC). Quantitation is based on nearest internal standard response factor
- N/A RPD or %Recovery limits do not apply.
- ND Analyte concentration is not detected above the detection limit
- NJ Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
- P Organics--The concentrations between the primary and confirmation columns/detectors is >40% different. For HPLC, difference is also <70%
- R Sample results are rejected

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QC Summary

Workorder: 251657

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date	Time

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

X Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier

Y QC Samples were not spiked with this compound

^ RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.

h Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

Page: 1 of 1

Project #:

GEL Quote #: GEL P10-0258

COC Number [0]:

PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number: 251657

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, PA Phone #: 843 488 0124

Project/Site Name: Town of McBee Well #2 Fax #: 843 488 0129

Address: 1300 Second Avenue Suite 211; Conway, SC 29526

Collected by: Brian Sexton, PE Send Results To: Brian Sexton P.E.

Sample Analysis Requested [5] (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code [1]	Field Filtered [3]	Sample Matrix [4]	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Well #2 - 2A	4-22-10	10:15	N	N	GW	N	N	1		
" - 2B	4-22-10	10:16	N	N	GW	N	N	1		
" - 2C	4-22-10	10:17	N	N	GW	N	N	1		
"										

Comments: Note: extra sample is required for sample specific QC

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: Yes / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards

Sample Collection Time Zone: Eastern Pacific Central Other _____ Mountain

Chain of Custody Signatures

	Relinquished By (signed)	Date	Time	Received by (signed)	Date	Time
1	[signature]	4-22-2010	3:00pm	[signature]	4/23/10	920
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson

Method of Shipment: UPS overnight Date Shipped: 4-22-2010

Airbill #:

Airbill #:

For Lab Receiving Use Only

Custody Seal Intact? YES NO

Cooler Temp: 6 °C

1.) Chain of Custody Number = Client Determined

2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite

3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field-filtered or - N - for sample was not field-filtered.

4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal

5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).

6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

00368

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/AR/COC/Work Order: ~~AMCG~~ 251657
Received By: Dionne Frances	Date Received: 4-23-10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		✓	Maximum Counts Observed*: 20CPM
Classified Radioactive II or III by RSO?		✓	
COC/Samples marked containing PCBs?		✓	
Shipped as a DOT Hazardous?		✓	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		✓	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
2	Samples requiring cold preservation within (0 ≤ 6 deg. C)?	✓			Preservation Method: (Ice bags) Blue Ice Dry Ice None Other (describe) 6°C
2a	Daily check performed and passed on IR temperature gun?	✓			Temperature Device Serial #: 51049919 Secondary Temperature Device Serial # (If Applicable):
3	Chain of custody documents included with shipment?	✓			
4	Sample containers intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
5	Samples requiring chemical preservation at proper pH?		✓		Sample ID's, containers affected and observed pH: If Preservation added, Lot#: VIALS
6	VOA vials free of headspace (defined as < 6mm bubble)?	✓			Sample ID's and containers affected:
7	Are Encore containers present?			✓	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	✓			ID's and tests affected:
9	Sample ID's on COC match ID's on bottles?	✓			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	✓			Sample ID's affected:
11	Number of containers received match number indicated on COC?	✓			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	✓			
13	Carrier and tracking number.	✓			Circle Applicable: FedEx Air FedEx Ground (UPS) Field Services Courier Other 1Z 385 ~~E88~~ 03 9620 9592

Comments (Use Continuation Form if needed):

Page 3 of 9 Review: Initials _____ Date 4-23-10 Page 1 of 1

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List of current GEL Certifications as of 09 June 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California - NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida - NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois - NELAP	200029
Indiana	C-SC-01
Kansas - NELAP	E-10332
Kentucky	90129
Louisiana - NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey - NELAP	SC002
New Mexico	FL NELAP E87156
New York - NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania - NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas - NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah - NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

APPENDIX 2

Construction Cost Estimates

- Immediate Needs
  - OPTION 1 = Well #1 Startup + Blending with New Well #3
  - OPTION 2 = Well #1 Startup + Blending with New Well #2
- Potential Future Needs
  - WELL #1 - Treatment Upgrades

TOWN OF MCBEE
IMMEDIATE WATER SYSTEM NEEDS
CONSTRUCTION COST ESTIMATE

OPTION 1 = Well #1 Startup + Blending with New Well #3

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$10,000
2.	New Potable Water Well Site (min. 6" diameter)	1	LS	$100,000
3.	6" PVC C900 Water Main From Well #3 to Well #1	4,000	LF	$60,000
4.	US-1 Crossing - Bore & Jack w/ Steel Casing	120	LF	$21,600
5.	Blending Connection to Well #1 Site Piping	1	LS	$15,000
6.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$231,600

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$11,580
2.	Basic Services (Engineering Design, etc.)		10.0%	$23,160
3.	Resident Inspection			$10,000
4.	Permanent Generator On-Site (30 kVa)			$20,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$64,740

TOTAL PROJECT COSTS = (A+B)	$296,340

TOWN OF MCBEE
IMMEDIATE WATER SYSTEM NEEDS
CONSTRUCTION COST ESTIMATE

OPTION 2 = Well #1 Startup + Blending with New Well #2

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$10,000
2.	Electrical Repairs & Miscellaneous Well Rehab	1	LS	$35,000
3.	6" PVC C900 Water Main From Well #2 to Well #1	11,000	LF	$165,000
4.	Railroad Crossing - Bore & Jack w/ Steel Casing	1	LS	$25,000
5.	Blending Connection to Well #1 Site Piping	1	LS	$15,000
6.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$275,000

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$13,750
2.	Basic Services (Engineering Design, etc.)		10.0%	$27,500
3.	Resident Inspection			$10,000
4.	Permanent Generator On-Site (30 kVa)			$20,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$71,250

TOTAL PROJECT COSTS = (A+B)	$346,250

TOWN OF MCBEE
POTENTIAL FUTURE WATER SYSTEM NEEDS
CONSTRUCTION COST ESTIMATE

WELL #1 - Treatment Upgrades

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$15,000
2.	Activated Carbon Pressure Vessels	1	LS	$100,000
3.	Green Sand Pressure Vessels	1	LS	$80,000
4.	Site Piping	1	LS	$30,000
5.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$250,000

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$12,500
2.	Basic Services (Engineering Design, etc.)		9.5%	$23,750
3.	Resident Inspection			$10,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$46,250

TOTAL PROJECT COSTS = (A+B)	$296,250
CURRENT + FUTURE TOTAL PROJECT COSTS = (OPTION 1)	$592,590
CURRENT + FUTURE TOTAL PROJECT COSTS = (OPTION 2)	$642,500
DIFFERENCE	$49,910

APPENDIX 3

Request for Proposals – Contract Operations for McBee Water System (performed July 2008, revised June 2010)

- Projected Annual Operating Budget for Year 1 – McBee O&M
- Summary of O&M Duties – McBee v/s Private Contractor
- Request for Proposals (sent July 2008 to all Certified Operators within 50 miles of McBee)

Town of McBee, South Carolina

Water System O&M Budgets - Alligator Rural Water v/s Oliver Environmental, Inc. (UPDATED 10-29-09)

	Historic Water Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.
	FY ending 6-30 2005	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2008	FY ending 6-30 2008
1. Revenues from Customers and Miscellaneous Fees					
1 Service charges	$ 166	$ 6,107	$ 50	$ 60	$ 60
2 Water Bills to McBee Customers	$ 173,587	$ 201,234	$ 226,275	$ 233,100	$ 233,100
3 Water taps	$ 1,750	$ 929	$ 5,732	$ 6,000	$ 6,000
4 Miscellaneous deposits	$ -	$ 1,000	$ 31	$ 40	$ 40
5 Reconnections	$ 750	$ 1,225	$ 1,700	$ 1,800	$ 1,800
6 Interest Income	$ 1,667	$ 1,948	$ 2,079	$ 2,200	$ 2,200
TOTALS	$ 177,920	$ 212,443	$ 235,867	$ 243,200	$ 243,200
Operating Expenses				3% annual inflation	
2. Direct Operation of Water System				40.8% proposed rate increase	
Alligator Water - Bulk Water/O&M Charge	$ 1.25	$ 1.25	$ 1.25	$ 1.76 (per 1,000 gallons)	
1 O&M Contract Services	$ 98,380	$ 79,766	$ 82,168	$ 115,700	$ 36,500
2 Misc. Repairs and maintenance	$ 280	$ 395	$ 800	$ -	$ -
3 Water pumps	$ 240	$ 631	$ 229	$ -	$ -
4 Salary - Water System ORC	$ -	$ -	$ -	$ -	$ -
5 Payroll Taxes	$ -	$ -	$ -	$ -	$ -
6 Retirement	$ -	$ -	$ -	$ -	$ -
7 Health/Life Insurance; Workers Compensation	$ -	$ -	$ -	$ -	$ -
8 Liability & Equipment Insurance	$ -	$ -	$ -	$ -	$ -
9 Uniforms	$ -	$ -	$ -	$ -	$ -
10 Vehicle & Equipment Maintenance	$ -	$ -	$ -	$ -	$ -
11 Equipment Rental	$ -	$ -	$ -	$ -	$ -
12 Fuel for Vehicle and Equipment	$ -	$ -	$ -	$ -	$ 500
13 Professional Services - Electrical & Mechanical; WTP Components	$ -	$ -	$ -	$ 2,000	$ 2,000
14 Hardware & Appurtenances	$ -	$ -	$ -	$ 2,000	$ 2,000
15 Regular Repair, Maintenance & Supplies	$ -	$ -	$ -	$ 500	$ 500
16 Emergency Repair, Maintenance & Supplies	$ -	$ -	$ -	$ -	$ 6,000
17 Lab Analysis & DHEC Fees	$ -	$ -	$ -	$ -	$ 9,700
18 Utilities - Power for well operation	$ -	$ -	$ -	$ -	$ 10,000
19 Water Treatment Chemicals	$ -	$ -	$ -	$ -	$ 67,200
TOTALS	$ 98,900	$ 80,792	$ 83,197	$ 120,700	

How do they know?

Town of McBee, South Carolina

Water System O&M Budgets - Alligator Rural Water v/s Oliver Environmental, Inc. (UPDATED 10-29-09)

		Historic Water Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget- Oliver Environmental, Inc.
		FY ending 6-30 2005	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2008	FY ending 6-30 2008
3. General and Administration						
1	Salaries and wages (Town-Paid Personnel)	$ 16,630	$ 22,565	$ 18,244	$ 18,800	$ 18,800
2	Payroll tax	$ 1,272	$ 1,726	$ 1,396	$ 1,500	$ 1,500
3	Retirement	$ 314	$ 1,738	$ 644	$ 700	$ 700
4	Group life/accidental death	$ 13	$ 20	$ 16	$ 20	$ 20
5	Software maintenance agreement	$ 1,494	$ 1,625	$ -	$ -	$ -
6	Refunds on water deposits	$ 901	$ 436	$ 207	$ 300	$ 300
7	Due of water bills from deposits	$ 363	$ 420	$ 269	$ 300	$ 300
8	Bank charges	$ 416	$ 622	$ 193	$ 200	$ 200
9	Postage	$ 1,371	$ 1,434	$ 1,670	$ 1,800	$ 1,800
10	Office supplies	$ -	$ -	$ 143	$ 200	$ 200
11	Theft expense	$ -	$ -	$ 4	$ -	$ -
12	Water project expense	$ 2,147	$ -	$ 28,352	$ -	$ -
13	Insufficient fund charges	$ -	$ -	$ 31	$ -	$ -
	TOTALS	**$ 24,921**	**$ 30,586**	**$ 51,169**	**$ 23,820**	**$ 23,820**
4. Other Expenses						
1	Interest expense (USDA Loan)	$ -	$ -	$ 75,332	$ 75,127	$ 75,127
2	Principal Payment (USDA Loan)	$ -	$ -	$ -	$ 17,525	$ 17,525
3	Debt Service Payment (Financing of Independent Start-Up Requ.)	$ -	$ -	$ -	$ -	$ -
4	Capital Outlay for Elevated Tanks - Future Coatings/Repairs	$ -	$ -	$ -	$ 10,000	$ 10,000
5	Capital Outlay for Future Well & Pipeline Improvements	$ -	$ -	$ -	$ 10,000	$ 10,000
6	Unclassified Items	$ -	$ -	$ 7,461	$ -	$ -
7	Transfer to General Fund	$ -	$ -	$ -	$ -	$ -
	TOTALS	**$ -**	**$ -**	**$ 82,793**	**$ 112,652**	**$ 112,652**
	Total Operating Expenses	**$ 123,821**	**$ 111,378**	**$ 217,159**	**$ 257,172**	**$ 203,672**
	Net Operating Income	**$ 54,099**	**$ 101,065**	**$ 18,708**	**$ (13,972)**	**$ 39,528**

Organizational Chart of Services Performed - Alligator Rural Water v/s Oliver Environmental, Inc.

Costs & Services Included in the Daily O&M Contract - EXISTING CONTRACT

	Duties of Water System ORC	[redacted]		McBee	Currently Not performed	Current Billing Procedures
1	Operations, Consulting, and Management					$1.25 per 1,000 gallons ($82,200 FY-2008, estimate)
2	General Daily Operation					
3	Water System Sampling					
4	DHEC Reporting					
[redacted]						
6	Coordination of all services sub-contracted					
7	Lab Analysis & DHEC Fees					
8	Electricity and Chemicals					

Costs & Services NOT Included in the Daily O&M Contract - EXISTING CONTRACT

[redacted]						Directly Billed to McBEE annually, or as services are performed ($5,000 annually, estimate)
2	Distribution Line Repairs					
3	Residential Taps					
4	New Line Installation					
5	Emergency Response					
6	Electrical and Mechanical Maintenance					No direct bill; services performed by Town
7	Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.					
8	Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.					
9	Fire hydrant flushing and blow-off/post hydrant flushing					Currently not performed or billed
10	Valve exercise					
11	Leak detection					

Outside of the Normal Scope of Services - Additional Fees Apply

1	Engineering procurement					Billed to McBEE as services are performed
2	Grant administration					
3	Elevated tank maintenance					capital project financing
4	Capital improvements					
5	Well rehabilitations					

REQUEST FOR PROPOSALS
OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
TOWN OF McBEE, SOUTH CAROLINA

A. RFP General Information

i. The objective of this Request for Proposals (RFP) is to solicit bid prices and summary statements of qualifications from professional water consultants, existing water utilities, and other qualified entities (hereinafter called the OPERATOR), licensed in the State of South Carolina, to provide comprehensive water treatment and distribution Operation and Maintenance services (O&M) to the TOWN OF McBEE. McBEE, located in Chesterfield County, South Carolina, seeks professional services related to the maintenance and operation of the McBEE groundwater supply well(s), treatment systems, and distribution and storage systems in compliance with State and Federal Regulations.

ii. It should be noted that minimal treatment is required to treat the groundwater withdrawn from the Middendorf aquifer to potable status.

B. Basis for Potential Award

i. Responses to this RFP will be used to determine the qualifications of various entities to provide the scope of work and tasks specified. McBEE will conduct a final selection based on the responsive, responsible OPERATOR with the most economical LUMP SUM BID for the proposed services.

ii. McBEE does not guarantee that any OPERATOR will be selected, or contract awarded, for the services described in this RFP. If an OPERATOR is selected by McBEE, McBEE does not make any guarantee when an award would be made for the services described in this RFP.

iii. If an award is granted for the O&M services described in this RFP, McBEE does not guarantee the term of this award for any duration. The OPERATOR's performance will be subject to a detailed review annually. This review will be conducted by representatives of the TOWN OF McBEE and a summary of this review will be made available to the OPERATOR. Any actions deemed necessary to continue, terminate, or alter the contract term will be at the sole discretion of McBEE.

iv. The information contained in the DESCRIPTION OF SERVICE REQUIREMENTS should be used by the OPERATOR to develop an ANNUAL LUMP SUM BID for Operation and Maintenance services, payable in monthly installments. A detailed audit of the documented costs used to determine the LUMP SUM BID will be conducted annually and reviewed by the OPERATOR and the TOWN OF McBEE. The results of this audit will be used to determine if any change in compensation is warranted for the Scope of Services provided in this RFP.

C. OPERATOR Questions Concerning this RFP

i. This RFP contains, in general terms, the overall objectives of McBEE in obtaining the O&M services of a qualified OPERATOR. If it becomes necessary to revise any part of this RFP, amendments will be made available to all potential OPERATORS.

ii. Questions regarding the scope of services for this RFP shall be submitted in writing and directed to the ENGINEER, Brian Sexton, P.E., Marziano & McGougan, P.A. **The deadline for submitting questions regarding this RFP is by close of business July 30, 2008.** All responses to questions, including any significant changes and/or modifications, will be faxed to all parties.

Marziano & McGougan, P.A.
Brian Sexton, P.E.
1300 Second Avenue, Suite 211
Conway, SC 29526
(843) 488-0124 Phone
(843) 488-0129 Fax
E-mail: bsexton@marziano-mcgougan.com

D. OPERATOR's Response to this RFP

i. McBEE is seeking OPERATORS which demonstrate expertise described within this RFP and which demonstrate the ability to provide equipment, personnel and expertise in providing the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS. It is anticipated that an agreement for O&M will be executed between McBEE and the OPERATOR which is determined to best meet the needs of McBEE.

ii. Each OPERATOR providing a proposal for consideration by McBEE is responsible for obtaining information on the conditions, restrictions, and State/Federal regulations involved in providing the O&M services as set forth in this RFP.

iii. RFP responses must include the following materials in order to be considered as a responsive bidder:

- Consultant's statement of qualifications to perform the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS
- Annual LUMP SUM BID to perform the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS
- Resumes, certifications, and certification numbers of all personnel proposed to coordinate the operations and service requirements on behalf of McBEE
- Water system management approach
- Anticipated schedule of on-site visits
- Man-hour estimates of routine work to be performed on-site and off-site in order to maintain water system compliance
- Estimated routine response time and emergency response time from consultant's operational base to the McBEE Well #1 location near Town Hall

- Schedule of fees for routine maintenance and emergency maintenance (should include personnel and equipment prices separately)
- Proposed method of transferring pertinent water system operational data to McBEE using the existing on-site SCADA telemetry system

iv. The annual LUMP SUM BID must be <u>exclusive</u> of all material costs for routine and emergency repairs to the water system. Any routine or emergency repairs to the water system, up to an estimated cost of $5,000, must be performed by the OPERATOR in accordance with the <u>DESCRIPTION OF SERVICE REQUIREMENTS.</u>

Any routine or emergency repairs to the water system, with an estimated cost greater than $5,000, may be advertised for competitive bids at the option of McBEE. McBEE can make award to the water system OPERATOR or another bidder after receiving, opening, and evaluating bids. McBEE will conduct a final selection for the repair work based on the responsive, responsible BIDDER with the most economical BID for the proposed services.

v. <u>RFP responses must be submitted by mail or be delivered in person at the address listed below no later than 4:00 P.M. E.S.T. on August 1, 2008.</u> Late submittals will not be accepted for consideration. Five (5) copies of the OPERATOR's response must be submitted. Once all submittals have been reviewed, OPERATORs should be prepared to provide additional details and clarifications of their bid, if so requested by McBEE. All submitted responses will be retained and will not be returned.

All responses and supporting materials should be enclosed in a sealed envelope and properly marked as follows, with the name and address of the responding firm on the front of the envelope:

BIDDER'S PROPOSAL - OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
DELIVERED TO McBEE TOWN HALL on _____, 2008 @ _____ a.m. p.m.
Attn: Mr. John Campolong, Town Council
38 W. Juniper Avenue
P.O. Box 248
McBEE, SC 29101
(843) 335-8474 Phone
(843) 335-5163 Fax

DESCRIPTION OF SERVICE REQUIREMENTS
OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
TOWN OF McBEE, SOUTH CAROLINA

1. TOWN OF McBEE - WATER SYSTEM DESCRIPTION

1.1 McBEE Water System Components

The McBEE water system consists of approximately 80,000 linear feet (15 miles) of PVC water distribution mains located in southern Chesterfield County, South Carolina. The system is supplied through the use of one (1) regular supply well, Primary Well #1, and one (1) emergency/supplemental supply well, Secondary Well #2.

Currently, McBEE has one (1) emergency/supplemental interconnection with the Alligator Rural Water system. The connection to Alligator Rural Water may be terminated once the Secondary Well #2 is on-line.

McBEE serves approximately 385 residential water connections; in addition, the system serves approximately 50 commercial customers. The average daily water demand is approximately 207,000 gallons per day (calendar year 2007). The following components summarize the additional infrastructure in the McBEE water system:

- Primary Well #1 located adjacent to the existing well site near Town Hall (includes emergency generator on site).
- Water treatment plant, consisting of a liquid lime feed system, bulk chemical storage, chlorine gas treatment, and appurtenant SCADA telemetry.
- Secondary Well #2 located near A.O. Smith manufacturing company. This well is currently off-line.
- One 75,000 gallon elevated storage tank located at the Well #1 site.
- One 250,000 gallon elevated storage tank located at A.O. Smith manufacturing company.

1.2 Condition of the Existing McBEE Water System Components

The overall condition of the McBEE water system is considered to be excellent, in "like new" condition. This is because 100% of McBEE's water mains were replaced in 2004 as part of a USDA Rural Development Association (USDA-RDA) project. Additional work performed in 2004 as part of this USDA-RDA project includes the following:

- Construction of a new primary Well #1 located adjacent to the existing well site near Town Hall.
- Construction of a new water treatment plant at the Well #1 site.
- Replacement of all water meters with Sensus radio read meters.
- Repaint of the interior and exterior of both elevated storage tanks.

Secondary Well #2 is currently off-line, but planning is underway to rehabilitate this well and place it back into service in the immediate future. The proposed upgrade to this well includes the following components:

- Addition of gas chlorine disinfection system (chlorine to be stored off site until the well is placed into service)
- Caustic soda chemical 30-day tank (approximately 300 gallons)
- SCADA telemetry system
- Portable generator quick-connection

2. DUTIES OF THE TOWN OF McBEE

The following summarizes the tasks that will be performed by the Town of McBEE in the normal operation and maintenance of the water system and its administration:

2.1 Water System Administration

All of the services described below are currently conducted by McBEE, its personnel and resources.

2.1.1 Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.

2.1.2 Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.

Monthly water meter reading services are provided by current outside operator. All water meters are radio-read meters and shall be read by McBEE, its personnel and resources.

2.1.3 Monthly water meter reading services for all residential and commercial customers. This information will be used by McBEE to generate monthly water bills.

2.2 Water Distribution/Storage O&M

All of the services described below are currently conducted by McBEE, its personnel and resources.

2.2.1 Fire hydrant flushing and blow-off/post hydrant flushing

2.2.2 Valve exercise program

2.2.3 Leak detection program

2.3 Engineering Procurement and Other Professional Services

2.3.1 Procurement of engineering services related to the expansion of the water distribution system and/or expansion of McBEE's capacity to withdraw and treat water for sale to its customer base.

3. ROUTINE DUTIES OF THE CONTRACT OPERATOR

The following summarizes the tasks that will be performed by the OPERATOR during the normal operation and maintenance of the water system and its administration:

3.1 Regulatory Requirements and Conditions for Reliable Service

3.1.1 OPERATOR shall comply with all requirements of the Safe Drinking Water Act and DHEC.

3.1.2 OPERATOR shall employ sound utility practices to ensure continuous, dependable, and reliable operation of the McBEE well(s) and treatment systems. The OPERATOR must work to minimize the scope and length of any water service disruption.

3.1.3 OPERATOR shall establish and submit an O&M/Water Quality Management Plan. The Plan shall ensure the provision of reliable, cost-effective, and compliant service over the term of the contract. OPERATOR shall maintain and update the Plan as necessary and adhere to its requirements throughout the contract term.

3.1.4 OPERATOR shall generate monthly reports indicating the following:

3.1.4.1 Daily volume of water pumped from Well #1 (and Well #2 when applicable)

3.1.4.2 Daily master meter readings at the interconnection to the Alligator Rural Water System (unless this connection is terminated).

3.2 Public Notification Requirements

3.2.1 OPERATOR shall notify McBEE of any non-compliance immediately upon identification of a problem. For all public notice or customer notification requirements, OPERATOR shall prepare the public notice and provide it in writing to McBEE for review and acceptance. Upon acceptance by McBEE, McBEE will mail and/or publish the public notices to all customers.

3.2.2 If the non-compliance is a result of OPERATOR negligence or violation of the terms of this contract, mailings and other public notices related to the specific non-compliance event will be at the expense of the OPERATOR.

3.3 Water Supply Well and Treatment System O&M

3.3.1 OPERATOR shall employ sound utility practices to ensure continuous, dependable, and reliable operation of the McBEE well(s) and treatment systems. The OPERATOR must work to minimize the scope and length of any water service disruption.

3.3.2 Daily inspection of Well #1 (and Well #2 when operational). This will require in-person examination of the well and treatment system components to ensure proper and safe operation of these facilities, as required by DHEC.

3.4 Water Distribution/Storage O&M

3.4.1 All water mains are to be maintained in accordance with DHEC 61-58.4.D.

3.4.2 In the event that emergency repairs are required as a result of water main failure, all materials used shall be in accordance with DHEC 61-58.4.D.1; all work is to be completed in accordance with DHEC 61-58.4.D.11-16.

3.4.3 All water storage tanks are to be maintained in good working order. Daily visual inspection is required to ensure that water is not overflowing from the tank and to confirm that the tank is secure from any threats to public health, including but not limited to trespassing/climbing of the tank by unauthorized persons, vandalism, and excessive bird roosting/droppings.

3.5 Water Quality Monitoring

3.5.1 OPERATOR shall prepare any and all monthly and annual water quality monitoring reports according to DHEC regulations. OPERATOR is responsible for timely submission of these reports.

3.5.2 OPERATOR shall annually, before January 30th, file with DHEC a water use report of the quantities of groundwater withdrawn in accordance with DHEC 61-113.

3.5.3 OPERATOR shall prepare and submit to McBEE for approval an annual Consumer Confidence Report (CCR) outlining all water quality parameters measured in the McBEE water system. It is the responsibility of the OPERATOR to ensure that appropriate water sampling is maintained throughout the year to comply with all State and Federal requirements regarding the annual CCR.

4. EMERGENCY DUTIES OF THE CONTRACT OPERATOR

The following summarizes the tasks that will be performed by the OPERATOR during the emergency operation and maintenance of the water system and its administration:

4.1 Response to Service Interruptions and Emergencies

4.1.1 OPERATOR shall provide McBEE with a local or toll-free telephone number by which it can be contacted 24 hours a day, 7 days a week, for service requests. This number will connect McBEE to a local dispatcher or equivalent supervisor capable of estimating OPERATOR repair crew arrival time.

4.1.2 OPERATOR shall provide all necessary personnel, equipment, hardware, and tools necessary to repair and/or replace any component of the water system that causes an emergency situation to occur.

4.1.3 OPERATOR must respond to all emergency situations within a period of 24 hours or less. In the event of catastrophic failure to critical system components, time is of the essence and OPERATOR will make good faith efforts to respond as quickly as possible.

4.1.4 Emergency situations are defined as water main breaks, water supply failure, water tank low-level alarm, emergency power failure, as well as circumstances that can cause or will cause endangerment to public health, property damage, non-compliance with DHEC/EPA water quality regulations, and undesired/excessive loss of stored potable water due to a system malfunction.

4.1.5 Aesthetic water quality (taste, odor, cloudiness, sandiness, etc.) will be considered a non-emergency unless the problem persists for more than 24 hours. In the event that the aesthetic concerns persist more than 24 hours, OPERATOR will be required to correct the problem or provide written statement of the cause of the water quality problem(s) and the OPERATOR's justification for no action taken to remedy the issue.

4.1.6 Undue delays in the response time to any emergency will not be permitted. Any damages incurred as a result of negligence or slow response time will be the liability of the OPERATOR. This liability applies to the McBEE water system, private property, public health, enforcement actions taken by DHEC/EPA, or fines imposed by any other agency that has incurred damages as a result of OPERATOR performance.

4.1.7 OPERATOR shall maintain records of all service request calls, documenting the time of the call, time of service response, cause of request, and action taken (including time and date completed). Such records shall be retained for 2 years, and may be reviewed by McBEE upon reasonable notice.

5. LUMP SUM BID

The OPERATOR agrees to provide McBEE with the Scope of Services for Operation and Maintenance services, as described above, for a LUMP SUM BID of:_____ annually, payable in monthly installments.

A detailed audit of the documented costs used to determine the LUMP SUM BID will be conducted annually and reviewed by the OPERATOR and the TOWN OF McBEE. The results of this audit will be used to determine if any change in compensation is warranted for the Scope of Services provided in this RFP.

The OPERATOR agrees to the full performance of the Scope of Services for Operation and Maintenance services, as described in the **DESCRIPTION OF SERVICE REQUIREMENTS** contained herein.

The OPERATOR guarantees this LUMP SUM BID for a period of 90 days from the date of this BID PROPOSAL.

Operator Name:_____

Official Signature:_____

Print Name:_____

Title:_____

Witness:_____

Print Name:_____

Town of McBe

Water System O&M Budgets - Alligator Rural ...te

		Historic 1
		FY endin 200
		Operati
1. Revenues from Customers and Miscellaneous Fees		
1	Service charges	$
2	Water Bills to McBee Customers	$ 1
3	Water taps	$
4	Miscellaneous deposits	$
5	Reconnections	$
6	Interest Income	$
	TOTALS	$ 1

		Operati
2. Direct Operation of Water System		
	Alligator Water - Bulk Water/O&M Charge	$
1	O&M Contract Services	$
2	Misc. Repairs and maintenance	$
3	Water pumps	$
4	Salary - Water System ORC	$
5	Payroll Taxes	$
6	Retirement	$
7	Health/Life Insurance; Workers Compensation	$
8	Liability & Equipment Insurance	$
9	Uniforms	$
10	Vehicle & Equipment Maintenance	$
11	Equipment Rental	$
12	Fuel for Vehicle and Equipment	$
13	Professional Services - Electrical & Mechanical; WTP Components	$
14	Hardware & Appurtenances	$
15	Regular Repair, Maintenance & Supplies	$
16	Emergency Repair, Maintenance & Supplies	$
17	Lab Analysis & DHEC Fees	$
18	Utilities - Power for well operation	$
19	Water Treatment Chemicals	$
	TOTALS	$

South Carolina

Oliver Environmental, Inc. (UPDATED 10-29-09)

ater Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.
6-30	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2008	FY ending 6-30 2008
Revenue				
166	$ 6,107	$ 50	$ 60	$ 60
3,587	$ 201,234	$ 226,275	$ 233,100	$ 233,100
1,750	$ 929	$ 5,732	$ 6,000	$ 6,000
-	$ 1,000	$ 31	$ 40	$ 40
750	$ 1,225	$ 1,700	$ 1,800	$ 1,800
1,667	$ 1,948	$ 2,079	$ 2,200	$ 2,200
7,920	$ 212,443	$ 235,867	$ 243,200	$ 243,200
Expenses				
			3%	annual inflation
			40.8%	proposed rate increase
1.25	$ 1.25	$ 1.25	$ 1.76	(per 1,000 gallons)
8,380	$ 79,766	$ 82,168	$ 115,700	$ 36,500
280	$ 395	$ 800	$ -	$ -
240	$ 631	$ 229	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ 500	$ 500
-	$ -	$ -	$ 2,000	$ 2,000
-	$ -	$ -	$ 2,000	$ 2,000
-	$ -	$ -	$ 500	$ 500
-	$ -	$ -	$ -	$ 6,000
-	$ -	$ -	$ -	$ 9,700
-	$ -	$ -	$ -	$ 10,000
9,900	$ 80,792	$ 83,197	$ 120,700	$ 67,200
			Net Difference	$ 53,500

Town of McBee

Water System O&M Budgets - Alligator Rural W

		Historic V
		FY ending 2005
3. General and Administration		
1	Salaries and wages (Town-Paid Personnel)	$
2	Payroll tax	$
3	Retirement	$
4	Group life/accidental death	$
5	Software maintenance agreement	$
6	Refunds on water deposits	$
7	Due of water bills from deposits	$
8	Bank charges	$
9	Postage	$
10	Office supplies	$
11	Theft expense	$
12	Water project expense	$
13	Insufficient fund charges	$
	TOTALS	$ 2
4. Other Expenses		
1	Interest expense (USDA Loan)	$
2	Principal Payment (USDA Loan)	$
3	Debt Service Payment (Financing of Independent Start-Up Requ.)	$
4	Capital Outlay for Elevated Tanks - Future Coatings/Repairs	$
5	Capital Outlay for Future Well & Pipeline Improvements	$
6	Unclassified Items	$
7	Transfer to General Fund	$
	TOTALS	$
	Total Operating Expenses	$ 1
	Net Operating Income	$

, South Carolina

Oliver Environmental, Inc. (UPDATED 10-29-09)

	Water Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.
6-30	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2008		FY ending 6-30 2008
6,630	$ 22,565	$ 18,244	$ 18,800		$ 18,800
1,272	$ 1,726	$ 1,396	$ 1,500		$ 1,500
314	$ 1,738	$ 644	$ 700		$ 700
13	$ 20	$ 16	$ 20		$ 20
1,494	$ 1,625	$ -	$ -		$ -
901	$ 436	$ 207	$ 300		$ 300
363	$ 420	$ 269	$ 300		$ 300
416	$ 622	$ 193	$ 200		$ 200
1,371	$ 1,434	$ 1,670	$ 1,800		$ 1,800
-	$ -	$ 143	$ 200		$ 200
-	$ -	$ 4	$ -		$ -
2,147	$ -	$ 28,352	$ -		$ -
-	$ -	$ 31	$ -		$ -
,921	$ 30,586	$ 51,169	$ 23,820		$ 23,820
-	$ -	$ 75,332	$ 75,127		$ 75,127
-	$ -	$ -	$ 17,525		$ 17,525
-	$ -	$ -	$ -		$ -
-	$ -	$ -	$ 10,000		$ 10,000
-	$ -	$ -	$ 10,000		$ 10,000
-	$ -	$ 7,461	$ -		$ -
-	$ -	$ -	$ -		$ -
-	$ -	$ 82,793	$ 112,652		$ 112,652
,821	$ 111,378	$ 217,159	$ 257,172		$ 203,672
,099	$ 101,065	$ 18,708	$ (13,972)		$ 39,528
				Net Savings	$ 53,500

1 of 2

Organizational Chart of Services Performed - Alli	
Costs & Services Included in the [	V
Duties of Water System ORC	
1	Operations, Consulting, and Management
2	General Daily Operation
3	Water System Sampling
4	DHEC Reporting
5	Meter Reading (ALL master meters, residential and commercial readings)
6	Coordination of all services sub-contracted
7	Lab Analysis & DHEC Fees
8	Electricity and Chemicals
Costs & Services NOT Included in the Da	
1	Backflow prevention testing (once annually)
2	Distribution Line Repairs
3	Residential Taps
4	New Line Installation
5	Emergency Response
6	Electrical and Mechanical Maintenance
7	Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.
8	Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.
9	Fire hydrant flushing and blow-off/post hydrant flushing
10	Valve exercise
11	Leak detection
Outside of the Normal Scope (	
1	Engineering procurement
2	Grant administration
3	Elevated tank maintenance
4	Capital Improvements
5	Well rehabilitations

Rural Water v/s Oliver Environmental, Inc.				
O&M Contract - EXISTING CONTRACT				
ARW	Subconsultant to ARW	McBee	Currently Not performed	Current Billing Procedures
				$1.25 per 1,000 gallons ($82,200 FY-2008, estimate)
ly O&M Contract - EXISTING CONTRACT				
				Directly Billed to McBEE annually, or as services are performed ($5,000 annually, estimate)
				No direct bill; services performed by Town
				Currently not performed or billed
Services - Additional Fees Apply				
				Billed to McBEE as services are performed
				capital project financing

Organizational Chart of Services Performed - Allig

Costs & Services Included in the Da

	Duties of Water System ORC
1	Operations, Consulting, and Management
2	General Daily Operation
3	Water System Sampling
4	DHEC Reporting
5	Coordination of all services sub-contracted
6	Backflow prevention testing (once annually)

	Costs & Services NOT Included in the Dail
1	Distribution Line Repairs
2	Residential Taps
3	New Line Installation
4	Emergency Response
5	Electrical and Mechanical Maintenance
6	Lab Analysis & DHEC Fees
7	Electricity and Chemicals
8	Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.
9	Customer billing; mailing and other notifications as required by DHEC and federal EPA requirements.
10	Meter Reading (All master meters, residential and commercial readings)
11	Fire hydrant flushing and blow-off/post hydrant flushing
12	Valve exercise
13	Leak detection

	Outside of the Normal Scope
1	Engineering procurement
2	Grant administration
3	Elevated tank maintenance
4	Capital Improvements
5	Well rehabilitations

Rural Water v/s Oliver Environmental, Inc.				
&M Contract - PROPOSED CONTRACT				
Oliver Env. Inc	Subconsultant to Oliver Env. Inc	McBee	Currently Not performed	Current Billing Procedures
				$36,500 annually (Bid Price Received 8-1-2008)
O&M Contract - PROPOSED CONTRACT				
				Directly Billed to McBEE annually, or as services are performed ($5,000 annually, estimate)
				Directly Billed to McBEE annually, or as services are performed ($25,700 annually, estimate)
				No direct bill; services performed by Town
				Currently not performed or billed
Services - Additional Fees Apply				
				Billed to McBEE as services are performed
				capital project financing

MARZIANO & MCGOUGAN, P.A.

Town of McBee, South Carolina Groundwater Well Testing & Evaluation Well #1 and Well #2

PRELIMINARY ENGINEERING REPORT

Final Submittal—August 9, 2010

Submitted to

Mr. John Campolong, Mayor
Town of McBee
P.O. Box 248
McBee, South Carolina 29101
(843) 335-8474
(843) 335-5163 fax
vinci@shtc.net

8-9-2010

Prepared by

Brian Sexton, P.E.
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Building innovation.

Town of McBee – Water Supply Analysis
Groundwater Well Testing and Evaluation

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- May 10th, 2010: Well #1 Only
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Appendix 2 – Construction Cost Estimates

- Well #1 Filtration Additions
- Well #2 Filtration Additions & Upgrades

Appendix 3 – Request for Proposals – Contract Operations for McBee Water System (performed July 2008, revised June 2010)

- Projected Annual Operating Budget for Year 1 – McBee O&M
- Summary of O&M Duties – McBee v/s Private Contractor
- Request for Proposals (sent July 2008 to all Certified Operators within 50 miles of McBee)

Town of McBee – Water Supply Analysis
Groundwater Well Testing and Evaluation

1.0 Project History and USDA's Requirements for Water System Transfer

One of the ultimate goals of this report is to empower the Town of McBee to resume daily operations and production at its own water facilities. The current contract arrangement with Alligator Rural Water (ARW) is a relationship that the Town has expressed interest in terminating for several years. In order for McBee to resume operational control over its water facilities, USDA, the owner of McBee's water system debt, established several conditions that must be met in order to support the transfer of O&M responsibilities back to McBee. The four (4) primary conditions laid out by USDA, summarized below, require McBee to prove its ability provide citizens with a safe and reliable drinking water supply that is operated in a safe and consistent manner.

1) Provide a clean audit report (completed)

2) Documentation of how McBee would replace ARW's provision of water supply:

   Included in the Scope of this Report
   a. Source water production
   b. Costs associated with obtaining source water

   Outside the Scope of this Report
   a. Proposed funding sources

3) Financial O&M projections after McBee replaces ARW's provision of O&M services:

   Completed in RFP for Contract Services, July 2008 (see Appendix 3)
   a. Source water production
   b. Projected costs/revenues for one fiscal year
   c. O&M responsibilities for the Town of McBee and a private contractor

4) Required engineering and DHEC approval requirements

   Included in the Scope of this Report
   a. Engineering recommendations and cost estimates
   b. Contact DHEC to determine the agency's opinion of permitting the existing Well #2 and continued operation of Well #1

   Outside the Scope of this Report
   a. Detailed engineering design and permitting of proposed facilities
   b. Detailed oversight to transfer permits and O&M responsibilities of water system from ARW to Town of McBee
   c. Detailed coordination with DHEC staff and permitting requirements

2.0 Project Description

Since the summer of 2009, the Town of McBee's primary water supply well (Well #1 located near town hall) has been shut down due to the presence of contaminants in the groundwater that were detected during routine monitoring tests. Alligator Rural Water (ARW) opted to disconnect Well #1 from McBee's distribution system. ARW currently supplies McBee and the surrounding service area through water produced and treated at ARW-owned wells located outside of the town limits. These wells, although adequate for the purpose of supplying McBee and adjacent areas with safe drinking water, have replaced McBee's normal water supply well (Well #1).

Since Well #1 has ceased operating, no water quality sampling has been conducted at Well #1 to further assess the amount of contaminants present in the groundwater at this location. Although low levels of contaminants were detected in the groundwater at Well #1, the levels were below the federal Maximum Contaminant Level (MCL) established by EPA for these contaminants, as reported by ARW to the Town of McBee. According to Town officials, the identity and levels of the detected contaminants in Well #1 were not made available to the Town of McBee.

McBee considers Well #1 to be an asset to the Town's water infrastructure because Well #1 is a centrally located supply point in the distribution system layout, and McBee desires to be supplied through this existing resource. McBee hired Marziano & McGougan, P.A. (M&M) to sample Well #1 to determine the extent of contaminants and recommend any treatment modifications at Well #1 that can remove these pollutants. Additionally, M&M sampled and made similar recommendations for Well #2, located outside of the town limits behind the A.O. Smith manufacturing facility. It should be noted that Well #2 is an inactive well that could serve as a redundant and/or supplemental groundwater supply for the Town of McBee.

3.0 Existing Water System Components

The McBee water system consists of approximately 80,000 linear feet (15 miles) of PVC water distribution mains located in southern Chesterfield County, South Carolina. McBee serves approximately 385 residential water connections; in addition, the system serves approximately 50 commercial customers. The average daily water demand is approximately 207,000 gallons per day (calendar year 2007). The system is normally supplied through the use of one (1) primary supply well with a pumping capacity of approximately 600 gallons per minute (gpm). Currently, McBee has one (1) primary interconnection with ARW that is the sole source of water supply to the Town. A secondary Well #2, located two miles from Town Hall behind the A.O. Smith manufacturing company, is currently off-line but could be used as a backup supply in the future. Additional water infrastructure can be summarized as follows:

- Water treatment plant at Well #1 site, consisting of a liquid lime feed system, bulk chemical storage, chlorine gas treatment, and appurtenant SCADA telemetry.
- One 75,000 gallon elevated storage tank located at the Well #1 site.
- One 250,000 gallon elevated storage tank located at A.O. Smith manufacturing

4.0 Definition of Contaminants: DBCP, EDB & Radium

For the purposes of this study, M&M was requested to take water quality samples for three parameters of interest: (1) DBCP (also known as 1,2-Dibromo-3-chloropropane), (2) EDB (also known as Ethylene bromide and 1,2-Dibromoethane), and (3) combined radium (Radium 226 + Radium 228). DBCP and EDB levels were to be determined at the request of the Town of McBee; radium levels were to be determined at the request of the DHEC.

4.1 DBCP (1,2-Dibromo-3-chloropropane)

DBCP, is a dense yellow organic liquid with a pungent odor. DBCP is used primarily as an unclassified nematocide for soil fumigation of cucumbers, summer squash, cabbage, cauliflower, carrots, snap beans, okra, aster, shasta daisy, lawn grasses and ornamental shrubs. Long-term consumption and exposure to drinking water with DBCP levels above the MCL may cause individuals to experience reproductive difficulties or an increased risk of cancer. The MCL for DBCP is 0.20 parts per billion (0.20 ppb) or 0.20 micrograms per liter (0.20 µg/L).

4.2 EDB (1,2-Dibromoethane)

EDB is regulated by EPA according to the Safe Drinking Water Act of 1974. EDB is a colorless, heavy synthetic organic liquid with a mildly sweet chloroform-like odor. EDB is mainly used in anti-knock gasoline mixtures, particularly aviation fuel. Long-term consumption and exposure to drinking water with EDB levels above the MCL may cause individuals to experience problems with the liver, stomach, reproductive system, or kidneys, and may have an increased risk of cancer. The MCL for EDB is 0.05 parts per billion (0.05 ppb) or 0.05 micrograms per liter (0.05 µg/L).

4.3 Total Combined Radium (Radium 226 + Radium 228)

Total combined radium (Radium 226 + Radium 228) is regulated by EPA according to the Safe Drinking Water Act of 1974. Most drinking water sources have very low levels of radioactive contaminants, or radionuclides. Most of these radionuclides are naturally occurring, although contamination of drinking water sources from human-made nuclear materials can also occur. Most radioactive contaminants are at sufficiently low levels to not be considered a public health concern. At higher levels, long-term consumption and exposure to drinking water with radionuclides (Radium 226 + Radium 228) above the MCL may cause an increased risk of cancer. The MCL for total combined radium (Radium 226 + Radium 228) is 5 pico-Curies, or 5 pCi.

5.0 Sampling and Testing Procedures

Sampling occurred on three separate occasions from March 25th to April 29th 2010.

5.1 First Sample – Well #1 & Well #2

On March 25th, 2010, water samples were taken at Well #1 and Well #2. Each well was flushed for several hours prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 110,000 gallons (metered) were flushed through Well #1 prior to taking the sample. Approximately 180,000 gallons (un-metered) were flushed through Well #2 prior to taking the sample. This large quantity of run-off water was necessary because both of these wells were shut down/inactive for a prolonged period.

GEL Laboratories provided 1.0 liter and 2.0 liter samples bottles that were filled and sealed for the radionuclides testing. GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of Marziano & McGougan, P.A. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis.

All of the 1.0 liter and 2.0 liter samples bottles for the radionuclides testing arrived in satisfactory condition and were processed for further analytical testing. However, the 40 mL sample vials for the organic chemicals testing (EDB, DBCP) arrived at GEL Laboratories above the normal testing temperature range of 0 to 6 degrees C. Therefore, these 40 mL samples were not utilized and were rejected at the request of the engineer. This was due to a combination of factors including the following: 24-hour period between taking of the samples and receipt by GEL Laboratories, warm air temperatures that led to the relatively quick melting of the blue ice blocks provided with the cooler, presence of additional large sample bottles in a small cooler that allowed no additional room for ice and sped up the melting process. Therefore, the samples had to be taken again in order to fill newly prepared 40 mL sample vials for the organic chemicals testing (EDB, DBCP).

5.2 Second Sample – Well #2 Only

On April 22nd, 2010, water samples were taken for the second time at Well #2. The well was flushed for approximately two hours prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 30,000 gallons (un-metered) were flushed through Well #2 prior to taking the sample. It should be noted that Well #1 could not be accessed during this time and was rescheduled one week later.

GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of M&M. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis. The 40 mL sample vials for the organic chemicals testing arrived in satisfactory condition and were processed for further analytical testing.

5.3 Third Sample – Well #1 Only

On April 29th, 2010, water samples were taken for the second time at Well #1. The well was flushed for approximately ten minutes prior to sampling in order to ensure that fresh water would be used in the analytical testing. Approximately 5,000 gallons (metered) were flushed through Well #1 prior to taking the sample. It should be noted that Well #1 could not be accessed during this time and was rescheduled one week later.

GEL Laboratories provided 40 mL sample vials that were filled and sealed for the organic chemicals testing (EDB, DBCP). All samples were taken and handled by Brian Sexton P.E. of M&M. The samples were shipped via UPS overnight to GEL Laboratories in Charleston, South Carolina for analysis. The 40 mL sample vials for the organic chemicals testing arrived in satisfactory condition and were processed for further analytical testing.

6.0 Analytical Results for First Sample

On April 23rd, 2010, analytical results were completed by GEL Laboratories for the First Sample. The analytical results were for both wells, radionuclides only.

Well #1 was found to have the following results:

Table 1 – Test Results for Well #1 (Radium)

Parameter	Result	% Uncertainty	Test Method
Radium 228	none detected	N/A	1
Radium 226	3.07 pCi	+/- 1.00	2
Radium 226	1.95 pCi	+/- 0.425	3

Please refer to page 3 of 12 of the April 23rd report from GEL Laboratories for the Well #1 results summary in its entirety. Well #2 was found to have the following results:

Table 2 – Test Results for Well #2 (Radium)

Parameter	Result	% Uncertainty	Test Method
Radium 228	none detected	N/A	1
Radium 226	1.04 pCi	+/- 0.644	2
Radium 226	0.767 pCi	+/- 0.256	3

Please refer to page 4 of 12 of the April 23rd report from GEL Laboratories for the Well #2 results summary in its entirety.

6.1 Water Quality of First Sample (Radium 226 + Radium 228)

The test results for Well #1 indicate that the total combined radium (Radium 226 + Radium 228) for Well #1 does not exceed 3.07 pCi, less than the MCL (5 pCi). Therefore, with respect to total combined radium, Well #1 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 60% of the MCL concludes that the Town of McBee should closely monitor the total combined radium at Well #1 to ensure that the MCL is not exceeded in any given year. DHEC and EPA require annual testing for total combined radium as part of the annual Consumer Confidence Report delivered to all customers of public water systems.

The test results for Well #2 indicate that the total combined radium (Radium 226 + Radium 228) for Well #2 does not exceed 1.04 pCi, less than the MCL (5 pCi). Therefore, with respect to total combined radium, Well #2 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 20% of the MCL concludes that the Town of McBee should closely monitor the total combined radium at Well #2 to ensure that the MCL is not exceeded in any given year.

7.0 Analytical Results for Second Sample

On June 9th, 2010, analytical results were completed by GEL Laboratories for the Second Sample. The analytical results were for Well #2 only, organic chemicals only.

Well #2 was found to have the following results:

Table 3 – Test Results for Well #2 (DBCP, EDB)

Parameter	Result	MCL	% Uncertainty	Test Method
DBCP (1,2-Dibromo-3-chloropropane)	0.0189 µg/L	0.200 µg/L	N/A	1
EDB (1,2-Dibromoethane)	none detected	0.050 µg/L	N/A	2

Please refer to page 3 of 9 of the June 9th report from GEL Laboratories for the Well #2 results summary in its entirety. It should be noted that the June 9th report replaces the May 5th report and analytical results due to a lab error.

7.1 Water Quality of Second Sample (DBCP)

The test results for Well #2 indicate that the DBCP level for Well #2 is 0.0189 µg/L (none detected), less than the MCL (0.200 µg/L). Therefore, with respect to DBCP, Well #2 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 9.5% of the MCL concludes that the Town of McBee should closely monitor the DBCP levels at Well #2 to ensure that the MCL is not exceeded in any given year. DHEC and EPA do not require annual testing for DBCP as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

7.2 Water Quality of Second Sample (EDB)

The test results for Well #2 indicate that the EDB level for Well #2 is zero (none detected), less than the MCL (0.050 µg/L). However, due to the level of refinement involved in the analytical work to test water samples for EDB, the possibility exists that the samples taken could have EDB levels below the "detectable limit" of 0.00596 µg/L. This would be a relatively small fraction of the MCL (approximately 11.9%) and is considered negligible for the purposes of this report due to the fact that no EDB was detected.

Therefore, with respect to EDB, Well #2 should be considered safe for drinking and other uses. The Town of McBee should closely monitor Well #2 to ensure that EDB does not become present in the groundwater in any given year. DHEC and EPA do not require annual testing for EDB as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

8.0 Analytical Results for Third Sample

On May 10th, 2010, analytical results were completed by GEL Laboratories for the Third Sample. The analytical results were for Well #1 only, organic chemicals only.

Well #1 was found to have the following results:

Table 4 –Test Results for Well #1 (DBCP, EDB)

Parameter	Result	MCL	% Uncertainty	Test Method
DBCP (1,2-Dibromo-3-chloropropane)	0.0224 µg/L	0.200 µg/L	N/A	1
EDB (1,2-Dibromoethane)	none detected	0.050 µg/L	N/A	2

Please refer to page 3 of 9 of the May 10th report from GEL Laboratories for the Well #1 results summary in its entirety.

8.1 Water Quality of Second Sample (DBCP)

The test results for Well #1 indicate that the DBCP level for Well #1 is 0.0224 µg/L, less than the MCL (0.200 µg/L). Therefore, with respect to DBCP, Well #1 should be considered safe for drinking and other uses. However, the fact that the sample is approximately 11.2% of the MCL concludes that the Town of McBee should closely monitor the DBCP levels at Well #1 to ensure that the MCL is not exceeded in any given year. DHEC and EPA do not require annual testing for DBCP as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

8.2 Water Quality of Third Sample (EDB)

The test results for Well #1 indicate that the EDB level for Well #1 is zero (none detected), less than the MCL (0.050 µg/L). However, due to the level of refinement involved in the analytical work to test water samples for EDB, the possibility exists that the samples taken could have EDB levels below the "detectable limit" of 0.00627 µg/L. This would be a relatively small fraction of the MCL (approximately 12.5%) and is considered negligible for the purposes of this report due to the fact that no EDB was detected.

Therefore, with respect to EDB, Well #1 should be considered safe for drinking and other uses. The Town of McBee should closely monitor Well #1 to ensure that EDB does not become present in the groundwater in any given year. DHEC and EPA do not require annual testing for EDB as part of the annual Consumer Confidence Report delivered to all customers of public water systems by the water provider (ARW in McBee's case).

9.0 Summary, Recommendations & Conclusions

It is evident that the Town of McBee has the resources to provide citizens with an adequate water supply (primary and redundant) through the utilization of Well #1 and Well #2. Each of these wells have been tested and found to contain zero to moderate levels of the three contaminants examined in this analysis. All three parameters of interest, if detected, were below the MCL for each well. The following table summarizes the results obtained from well samples taken between from March 25th to April 29th 2010:

Table 5 – Summary of Water Sample Results

Parameter	Well #1	Well #2
RADIUM		
Test Results	3.07	1.04
MCL	5.00	5.00
Is Sample OK?	YES	YES
%MCL	61%	21%
DBCP		
Test Results	0.0224	0.0189
MCL	0.200	0.200
Is Sample OK?	YES	YES
%MCL	11%	9.5%
EDB		
Test Results	ND	ND
MCL	0.050	0.050
Is Sample OK?	YES	YES
%MCL	0%	0%

9.1 Proposed Modifications to Well #1

In order for McBee to achieve its ultimate goal of resuming control of the O&M and supply of the Town's water system, it is recommended that Well #1 be placed back into service if DHEC allows this well to be utilized for continued public water supply. Because Well #1 has tested positive for Radium and DBCP, there are several considerations that McBee must weigh before attempting to resume water production at Well #1:

- Public health and perception of the presence of known contaminant levels in the ground water supply
- Ability for ARW to supply "cleaner" water supplied from other wells in the surrounding area
- Future vulnerability for DBCP levels in Well #1 to increase above the MCL
- Permitting and permanent filtration requirements for DHEC approval
- Construction and engineering costs to place this well back into service

M&M has reviewed the best available technology for treating the groundwater in McBee at the current contaminant levels and potential future levels (exceeding the MCL for each contaminant). The best available technology that would be appropriate for the McBee Water System for the treatment of radium would be the use of green sand filters. Green sand is a special media that is placed in a dedicated pressure filter that is constructed at the well site and piped into the regular/permanent treatment process. Green sand would be extremely effective to significantly reduce or remove radium from the groundwater at Well #1.

The best available technology that would be used for the removal of DBCP (and EDB) would be pressure filtration using activated carbon. Similar to the green sand filtration process, carbon media is placed in a dedicated pressure filter that is constructed at the well site and piped into the regular/permanent treatment process. Activated carbon would be extremely effective to significantly reduce or remove all traces of DBCP (and EDB) organic compounds from the groundwater at Well #1. The activated carbon and the green sand would have to be regenerated over time and therefore would increase the operational costs for water production at Well #1.

The recommended equipment could be installed at the existing well site with few modifications other than the installation of the equipment, onsite piping, and minor telemetry/control modifications. The proposed construction, design, and inspection costs to implement the proposed treatment enhancements at Well #1 are $296,250 as summarized in Appendix 2.

9.2 Proposed Modifications to Well #2

Similar to Well #1, Well #2 must be rehabilitated and placed back into service in order to serve as McBee's secondary (redundant) supply source in the event that ARW terminates the supply agreement with the Town altogether. It is highly recommended that a permanent emergency generator be placed at this site. This is due to the fact that McBee does not currently own a portable generator of adequate size (approximately 30 kVa) that can be utilized at this well.

In this report, McBee can achieve an alternate supply by utilization of Well #2 in the following two ways: Alternate 1 requires that Well #2 be upgraded to treat groundwater withdrawn from this well on site with its own treatment system. Alternate 2 requires that groundwater withdrawn from Well #2 be pumped back to Town Hall and pipe into Well #1 treatment facilities (approximately 11,000 linear feet)

9.2.1 Alternate 1 – On Site Groundwater Treatment

In order for McBee to resume total supply to the Town's water system, it is recommended that Well #2 be placed back into service if DHEC allows this well to be utilized for public water supply. Because Well #2 has tested positive for Radium and EDB, McBee must weigh the same considerations before attempting to resume water production at Well #2:

- Public health and perception of the presence of known contaminant levels in the ground water supply

- Ability for ARW to supply "cleaner" water supplied from other wells in the surrounding area
- Future vulnerability for DBCP levels in Well #2 to increase above the MCL
- Permitting and permanent filtration requirements for DHEC approval
- Construction and engineering costs to place this well back into service

Similar to Well #1, the best available technology for treating the groundwater at Well #2 is the use of green sand filters for radium removal and activated carbon filters for DBCP removal. The activated carbon and the green sand would have to be regenerated over time and therefore would increase the operational costs for water production at Well #2.

The recommended equipment could be installed at the existing well site with minor modifications other than the installation of the equipment and onsite piping. A complete electrical wiring replacement is recommended at this site along with the installation of new telemetry/control systems. The proposed construction, design, and inspection costs to implement the proposed treatment enhancements at Well #2-Alternate 1 are $237,000 as summarized in Appendix 2.

9.2.2 Alternate 2 – Proposed 6" Raw Water Main along US-1

For the long-term use of Well #2 as a redundant supply, McBee should consider the following alternate to treating groundwater on site at Well #2:

- Make upgrades to electrical wiring and telemetry as previously described
- Construct permanent generator on site
- Do not construct treatment facilities at Well #2
- Construct a 6" raw (untreated) water main back to Town Hall and pipe into Well #1 treatment facilities (approximately 11,000 linear feet)

Alternate 2 would require nominal changes in the construction costs from Well #1 treatment facilities due to the fact that Well #2 would run intermittently unless Well #1 experienced an operations emergency, regular maintenance, etc. Therefore, the proposed treatment systems can be sized for the larger Well #1 and still provide sufficient treatment capacity for flows pumped from the redundant Well #2.

Although it is estimated that Alternate 2 would be a higher initial cost, the annual O&M would be significantly less over the life of the system. Consolidation of the treatment facilities at Well #1 makes sense from an engineering, security, and financial perspective. The proposed construction, design, and inspection costs to implement the proposed treatment enhancements at Well #2-Alternate 2 are $306,000 as summarized in Appendix 2.

APPENDIX 1

Well Test Data

- April 23rd, 2010: Well #1 and Well #2
- May 10th, 2010: Well #1 Only
- June 9th , 2010: Well #2 Only

GEL Laboratories LLC

a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.556.8171 F 843.766.1178

www.gel.com

April 23, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 250074

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on March 26, 2010. This original data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 250074 GEL Work Order: 250074

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 – (843) 556-8171 – www.gel.com

Certificate of Analysis

Minimum Detection Level
Required Detection Limit

Company: Marziano & McGougan
Address: 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: **Routine Analytical**

Report Date: April 23, 2010

Client Sample ID: Special Sample@ Wellhead #1A,1B,1C
Sample ID: 250074001
Matrix: Ground Water
Collect Date: 25-MAR-10 10:30
Receive Date: 26-MAR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	Uncertainty	DL	RL	Units	DF	AnalystDate Time	Batch	Method
Rad Gas Flow Proportional Counting										
GFPC, Ra228, Liquid "As Received"										
Radium-228	U	ND	+/-1.18	1.81	3.00	pCi/L		JXC5 04/06/10 1120	970500	1
GFPC, Total Alpha Radium, Liquid "As Received"										
Total Alpha Radium		3.07	+/-1.00	0.896	1.00	pCi/L		JXC5 03/31/10 1023	970161	2
Rad Radium-226										
Lucas Cell, Ra226, liquid "As Received"										
Radium-226		1.95	+/-0.425	0.306	1.00	pCi/L		KSD1 04/14/10 1435	972456	3

The following Analytical Methods were performed

< 5, samples O.K.

Method	Description	Analyst Comments
1	EPA 904.0/SW846 9320 Modified	
2	EPA 900.1 Modified	
3	EPA 903.1 Modified	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Barium-133 Tracer	GFPC, Ra228, Liquid "As Received"			77.4	(15%-125%)
Barium Carrier	GFPC, Total Alpha Radium, Liquid "As Received"			87.1	(25%-125%)

Radium 226 + Radium 228 (combined MCL) = 5pCi/L

00411

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company: Marziano & McGougan
Address: 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: April 23, 2010

Client Sample ID: Special Sample@ Wellhead #2A,2B,2C
Sample ID: 250074003
Matrix: Ground Water
Collect Date: 25-MAR-10 11:00
Receive Date: 26-MAR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	Uncertainty	DL	RL	Units	DF	AnalystDate	Time	Batch	Method
Rad Gas Flow Proportional Counting											
GFPC, Ra228, Liquid "As Received"											
Radium-228	U	ND	+/-1.03	1.63	3.00	pCi/L		JXC5 04/06/10	1120	970500	1
GFPC, Total Alpha Radium, Liquid "As Received"											
Total Alpha Radium		1.04	+/-0.644	0.781	1.00	pCi/L		JXC5 03/31/10	1023	970161	2
Rad Radium-226											
Lucas Cell, Ra226, liquid "As Received"											
Radium-226		0.767	+/-0.256	0.193	1.00	pCi/L		KSD1 04/14/10	1450	972456	3

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 904.0/SW846 9320 Modified	
2	EPA 900.1 Modified	
3	EPA 903.1 Modified	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Barium-133 Tracer	GFPC, Ra228, Liquid "As Received"			89.3	(15%-125%)
Barium Carrier	GFPC, Total Alpha Radium, Liquid "As Received"			80.3	(25%-125%)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: April 23, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 250074

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
Rad Gas Flow										
Batch 970161										
QC1202083174 250074001 DUP										
Total Alpha Radium		3.07		3.83	pCi/L	22.1		(0% - 100%)	JXC5	03/31/10 10:13
	Uncertainty	+/-1.00		+/-1.05						
QC1202083176 LCS										
Total Alpha Radium	362			392	pCi/L		108	(75%-125%)		03/31/10 09:01
	Uncertainty			+/-9.60						
QC1202083173 MB										
Total Alpha Radium			U	0.152	pCi/L					03/31/10 10:13
	Uncertainty			+/-0.264						
QC1202083175 250074001 MS										
Total Alpha Radium	1090	3.07		1140	pCi/L		105	(75%-125%)		03/31/10 09:01
	Uncertainty	+/-1.00		+/-29.0						
Batch 970500										
QC1202084049 249905001 DUP										
Radium-228		3.20		3.04	pCi/L	5.08		(0% - 100%)	JXC5	04/06/10 11:19
	Uncertainty	+/-1.25		+/-1.27						
QC1202084051 LCS										
Radium-228	10.7			10.7	pCi/L		99.4	(75%-125%)		04/06/10 11:19
	Uncertainty			+/-1.31						
QC1202084048 MB										
Radium-228			U	0.192	pCi/L					04/06/10 11:24
	Uncertainty			+/-0.308						
QC1202084050 249905001 MS										
Radium-228	25.1	3.20		27.2	pCi/L		95.4	(75%-125%)		04/06/10 11:19
	Uncertainty	+/-1.25		+/-3.04						
Rad Ra-226										
Batch 972456										
QC1202088828 250083002 DUP										
Radium-226		0.511	U	0.173	pCi/L	98.8		(0% - 100%)	KSD1	04/14/10 17:05
	Uncertainty	+/-0.243		+/-0.146						
QC1202088831 LCS										
Radium-226	24.2			22.9	pCi/L		94.6	(75%-125%)		04/14/10 17:40
	Uncertainty			+/-1.36						
QC1202088827 MB										
Radium-226			U	0.126	pCi/L					04/14/10 17:05
	Uncertainty			+/-0.128						
QC1202088829 250083002 MS										
Radium-226	24.2	0.511		18.7	pCi/L		75.3	(75%-125%)		04/14/10 17:05
	Uncertainty	+/-0.243		+/-1.17						
QC1202088830 250083002 MSD										
Radium-226	121	0.511		117	pCi/L	145*	96.1	(0%-20%)		04/14/10 17:05
	Uncertainty	+/-0.243		+/-7.03						

QC Summary

Workorder: 250074

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date	Time

Notes:
The Qualifiers in this report are defined as follows:

**	Analyte is a surrogate compound
<	Result is less than value reported
>	Result is greater than value reported
A	The TIC is a suspected aldol-condensation product
B	For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
BD	Results are either below the MDC or tracer recovery is low
C	Analyte has been confirmed by GC/MS analysis
D	Results are reported from a diluted aliquot of the sample
F	Estimated Value
H	Analytical holding time was exceeded
J	Value is estimated
M	M if above MDC and less than LLD
M	Matrix Related Failure
N/A	RPD or %Recovery limits do not apply.
ND	Analyte concentration is not detected above the detection limit
NJ	Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
R	Sample results are rejected
U	Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.
UI	Gamma Spectroscopy--Uncertain identification
UJ	Gamma Spectroscopy--Uncertain identification
X	Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
Y	QC Samples were not spiked with this compound
^	RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.
h	Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

Page: 1 of 2
Project #:
GEL Quote #: GELPID-0258
COC Number [1]:
PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number: 250074

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, PA. Phone #: 843 488-0124
Project/Site Name: Town of McBee Well #1 Fax #: 843 488-0129
Address: 1300 Second Ave. Suite 211 Conway, SC 29526
Collected by: Brian Sexton, PE Send Results To: Brian Sexton, PE

Page 8 of 12

Sample Analysis Requested [5] (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code [1]	Field Filtered [2]	Sample Matrix [4]	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Wellhead #1 A	3-25-10	10:30	N	N	GW	N	N	1		Note: extra sample is required for sample specific QC
1B	3-25-10							1		
1C	3-25-10							1		
1D	3-25-10							1		
1E	3-25-10							1		
1F	3-25-10	10:35						1		

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge)
Fax Results: Yes / No
Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Sample Collection Time Zone: (Eastern) Central Mountain Pacific Other

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards
A sample is in 2L bottle. B+C are in 1L bottles. D,E,F are in 40mL vials.

Chain of Custody Signatures

	Relinquished By (Signed)	Date	Time	Received by (signed)	Date	Time
1		3-25-2010	3:00pm		3-26-10	1030
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS overnight Date Shipped: 3-25-2010
Airbill #:
Airbill #:

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: C

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

00416

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/ARCOC/Work Order: 250074
Received By: Greg Tyler	Date Received: 3-26-10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		X	Maximum Counts Observed*: 40 cpm
Classified Radioactive II or III by RSO?		X	
COC/Samples marked containing PCBs?		X	
Shipped as a DOT Hazardous?		X	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		X	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	X			Circle Applicable: seals broken / damaged container / leaking container / other (describe)
2	Samples requiring cold preservation within 0 ≤ 6 deg. C?		X		Preservation Method: ice bags / blue ice / dry ice / (none) / other (describe) 19°C
3	Chain of custody documents included with shipment?	X			
4	Sample containers intact and sealed?	X			Circle Applicable: seals broken / damaged container / leaking container / other (describe)
5	Samples requiring chemical preservation at proper pH?	X			Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?			X	Sample ID's and containers affected: Well #1E and Well #1F affected.
7	Are Encore containers present?			X	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	X			Id's and tests affected:
9	Sample ID's on COC match ID's on bottles?	X			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	X			Sample ID's affected:
11	Number of containers received match number indicated on COC?	X			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	X			

Comments:

UPS #
1Z 385 ER8 03 9174 2434

PM (or PMA) review: Initials MD Date 3/31/10

Page: 2 of 2
Project #:
GEL Quote #: GELP10-0258
COC Number (1):
PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number:

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, P.A. Phone #: 843 488-0124
Project/Site Name: Town of McBee Well #2 Fax #: 843 488-0129
Address: 1300 Second Ave. Suite 211 Conway, SC 29526
Collected by: Brian Sexton, PE Send Results To: Brian Sexton, PE

Page 10 of 12

Sample Analysis Requested (5) (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code (2)	Field Filtered (3)	Sample Matrix (4)	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Wellhead #2A	3-25-10	11:00	N	N	GW	N	N	1		
" 2B	3-25-10							1		
" 2C	3-25-10							1		
" 2D	3-25-10							1		
" 2E	3-25-10							1		
" 2F	3-25-10	11:05						1		

Comments: Note: extra sample is required for sample specific QC

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: (Yes) / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Sample Collection Time Zone: (Eastern) Central Mountain Pacific Other

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards

A sample is in 2L bottle. B&C are in 1L bottles. D, E, F are in 40mL vials.

Chain of Custody Signatures

Relinquished By (Signed)	Date	Time	Received by (signed)	Date	Time
1 Brian Sexton	3-25-10	3:00pm	1	3-26-10	1030
2			2		
3			3		

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS overnight Date Shipped: 3-25-2010
Airbill #:
Airbill #:

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: C

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

00418

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/ARCOC/Work Order: 250074
Received By: Greg Tyler	Date Received: 3-26-10

Suspected Hazard Information	Yes	No
COC/Samples marked as radioactive?		X
Classified Radioactive II or III by RSO?		X
COC/Samples marked containing PCBs?		X
Shipped as a DOT Hazardous?		X
Samples identified as Foreign Soil?		X

*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.

Maximum Counts Observed*: 40 cpm

Hazard Class Shipped: UN#:

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	X			Circle Applicable: seals broken damaged container leaking container other (describe)
2	Samples requiring cold preservation within 0 ≤ 6 deg. C?		X		Preservation Method: ice bags blue ice dry ice none other (describe) 19°C
3	Chain of custody documents included with shipment?	X			
4	Sample containers intact and sealed?	X			Circle Applicable: seals broken damaged container leaking container other (describe)
5	Samples requiring chemical preservation at proper pH?	X			Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?			X	Sample ID's and containers affected: Well # 2D affected.
7	Are Encore containers present?			X	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	X			Id's and tests affected:
9	Sample ID's on COC match ID's on bottles?	X			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	X			Sample ID's affected:
11	Number of containers received match number indicated on COC?	X			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	X			

Comments:

UPS # 1Z 385 ER8 03 9174 2434

PM (or PMA) review: Initials MB Date 3/31/10

List of current GEL Certifications as of 23 April 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California – NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida – NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois – NELAP	200029
Indiana	C-SC-01
Kansas – NELAP	E-10332
Kentucky	90129
Louisiana – NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey – NELAP	SC002
New Mexico	FL NELAP E87156
New York – NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania – NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas – NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah – NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

GEL Laboratories LLC

a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.556.8171 F 843.766.1178

www.gel.com

May 10, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 252016

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on April 30, 2010. This original data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 – (843) 556-8171 – www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 252016 GEL Work Order: 252016

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

J Value is estimated

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by Julie Robinson

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: May 10, 2010

Client Sample ID:	Special Sample @ Well #1-2A,2B,2C	Project:	MMCG00110
Sample ID:	252016001	Client ID:	MMCG001
Matrix:	Ground Water		
Collect Date:	29-APR-10 09:52		
Receive Date:	30-APR-10		
Collector:	Client		

Parameter	Qualifier	Result	DL	RL	Units	DF	AnalystDate	Time	Batch	Method
504.1/8011 Analysis of EDB/DBCP										
EDB, DBCP "As Received" — EDB										
1,2-Dibromoethane	U	ND (zero)	0.00627	0.0209	ug/L	1	TXK2 05/04/10	1417	980754	1
1,2-Dibromo-3-chloropropane — DBCP		0.0224	0.00627	0.0209	ug/L	1	TXK2 05/04/10	1417	980754	2

ug/L = parts per billion

The following Prep Methods were performed

Method	Description	Analyst	Date	Time	Prep Batch
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/04/10	1233	980752

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 504.1	
2	EPA 504.1	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Bromofluorobenzene	EDB, DBCP "As Received"	4.48 ug/L	3.73	120	(76%-124%)

MCL for DBCP = 0.20 ppb
MCL for EDB = 0.05 ppb

Well #1 Results Summary

EDB result indicates that zero(0) is present. O.K. ✓

DBCP result = 0.0224 which is < MCL

DBCP is present in Well #1 : 0.0224 < 0.200 O.K. ✓
(below MCL)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: May 10, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 252016

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
504.1/8011 Analysis of EDB/DBCP										
Batch 980754										
QC1202108851 LCS										
1,2-Dibromo-3-chloropropane	0.200			0.218	ug/L		109	(70%-130%)	TXK2	05/04/10 13:40
1,2-Dibromoethane	0.200			0.224	ug/L		112	(70%-130%)		
**Bromofluorobenzene	3.57			4.35	ug/L		122	(76%-124%)		
QC1202108852 LCSD										
1,2-Dibromo-3-chloropropane	0.200			0.225	ug/L	3.26	113	(0%-20%)		05/04/10 13:52
1,2-Dibromoethane	0.200			0.228	ug/L	1.58	114	(0%-20%)		
**Bromofluorobenzene	3.57			4.40	ug/L		123	(76%-124%)		
QC1202108850 MB										
1,2-Dibromo-3-chloropropane			U	ND	ug/L					05/04/10 13:27
1,2-Dibromoethane			U	ND	ug/L					
**Bromofluorobenzene	3.57			4.26	ug/L		119	(76%-124%)		

Notes:
The Qualifiers in this report are defined as follows:

- ** Analyte is a surrogate compound
- < Result is less than value reported
- > Result is greater than value reported
- A The TIC is a suspected aldol-condensation product
- B For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
- C Analyte has been confirmed by GC/MS analysis
- D Results are reported from a diluted aliquot of the sample
- E Organics--Concentration of the target analyte exceeds the instrument calibration range
- F Estimated Value
- H Analytical holding time was exceeded
- J Value is estimated
- M Matrix Related Failure
- N Organics--Presumptive evidence based on mass spectral library search to make a tentative identification of the analyte (TIC). Quantitation is based on nearest internal standard response factor
- N/A RPD or %Recovery limits do not apply.
- ND Analyte concentration is not detected above the detection limit
- NJ Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
- P Organics--The concentrations between the primary and confirmation columns/detectors is >40% different. For HPLC, difference is also <70%
- R Sample results are rejected

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Workorder: 252016

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date	Time

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

X Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier

Y QC Samples were not spiked with this compound

^ RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.

h Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

GEL Chain of Custody and Analytical Request

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Page: of
Project #: GELP10-0258
GEL Quote #:
COC Number (1):
PO Number:

GEL Work Order Number: 252011

Client Name: Marziano + McGougan, P.A. Phone #: 843 488 0124
Project/Site Name: Town of McBee Well #1 Fax #: 843 488 0129
Address: 1300 Second Ave; Suite 211; Conway, SC 29526
Collected by: Brian Sexton P.E. Send Results To: Brian Sexton P.E.

Page 1 of 1

Sample Analysis Requested (5) (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code (1)	Field Filtered (2)	Sample Matrix (4)	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @ Well #1 -2A	4-29-2010	9:50A	N	N	GW	N	N	1		Note: extra sample is required for sample specific QC
" -2B	4-29-2010	9:51A	N	N	GW	N	N	1		
" -2C	4-29-2010	9:52A	N	N	GW	N	N	1		

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: Yes / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Remarks: *Are there any known hazards applicable to these samples? If so, please list the hazards*

Sample Collection Time Zone: Eastern Pacific Central Other Mountain

Chain of Custody Signatures

	Relinquished By (signed)	Date	Time	Received by (signed)	Date	Time
1	Brian Sexton	4-29-2010	1:00PM		4/30/10	10:30
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS Overnight Date Shipped: 4-29-2010
Airbill #:
Airbill #:

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: C

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. *8260B - 3, 6010B/7470A - 1*).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FIE PINK = CLIENT

00427

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: Marziano & McGowan, PA (MMG)	SDG/AR/COC/Work Order: 252016
Received By: SM/Taylor	Date Received: 4/30/10

Suspected Hazard Information	Yes	No
COC/Samples marked as radioactive?		✓
Classified Radioactive II or III by RSO?		✓
COC/Samples marked containing PCBs?		✓
Shipped as a DOT Hazardous?		✓
Samples identified as Foreign Soil?		✓

*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.

Maximum Counts Observed*: Cpm 20

Hazard Class Shipped: UN#:

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
2	Samples requiring cold preservation within (0 ≤ 6 deg. C)?	✓			Preservation Method: (Ice bags) Blue ice Dry ice None Other (describe) 10
2a	Daily check performed and passed on IR temperature gun?	✓			Temperature Device Serial #: 51850004 Secondary Temperature Device Serial # (If Applicable):
3	Chain of custody documents included with shipment?	✓			
4	Sample containers intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
5	Samples requiring chemical preservation at proper pH?			✓	Sample ID's, containers affected and observed pH: If Preservation added, Lot#:
6	VOA vials free of headspace (defined as < 6mm bubble)?	✓			Sample ID's and containers affected:
7	Are Encore containers present?			✓	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	✓			ID's and tests affected:
9	Sample ID's on COC match ID's on bottles?	✓			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	✓			Sample ID's affected:
11	Number of containers received match number indicated on COC?	✓			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	✓			
13	Carrier and tracking number.	✓			Circle Applicable: FedEx Air FedEx Ground (UPS) Field Services Courier Other 1238 5ER8 0392 8065 97

Comments (Use Continuation Form if needed):

PM (or PMA) review: Initials SP Date 4/30/10 Page 1 of 1

List of current GEL Certifications as of 10 May 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California - NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida - NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois - NELAP	200029
Indiana	C-SC-01
Kansas - NELAP	E-10332
Kentucky	90129
Louisiana - NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey - NELAP	SC002
New Mexico	FL NELAP E87156
New York - NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania - NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas - NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah - NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

GEL Laboratories LLC
a member of The GEL Group INC

PO Box 30712 Charleston, SC 29417
2040 Savage Road Charleston, SC 29407
P 843.556.8171 F 843.766.1178

www.gel.com

June 09, 2010

Mr. Brian Sexton
Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina 29526

Re: Routine Analytical
Work Order: 251657

Dear Mr. Sexton:

GEL Laboratories, LLC (GEL) appreciates the opportunity to provide the enclosed analytical results for the sample(s) we received on April 23, 2010. This revised data report has been prepared and reviewed in accordance with GEL's standard operating procedures.

Our policy is to provide high quality, personalized analytical services to enable you to meet your analytical needs on time every time. We trust that you will find everything in order and to your satisfaction. If you have any questions, please do not hesitate to call me at (843) 556-8171, ext. 4289.

Sincerely,

Julie Robinson

Julie Robinson
Project Manager

Enclosures

problem solved

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis Report
for

MMCG001 Marziano & McGougan

Client SDG: 251657 GEL Work Order: 251657

The Qualifiers in this report are defined as follows:

* A quality control analyte recovery is outside of specified acceptance criteria

** Analyte is a surrogate compound

J Value is estimated

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the Certificate of Analysis.

The designation ND, if present, appears in the result column when the analyte concentration is not detected above the detection limit.

This data report has been prepared and reviewed in accordance with GEL Laboratories LLC standard operating procedures. Please direct any questions to your Project Manager, Julie Robinson.

Reviewed by Julie Robinson

GEL LABORATORIES LLC
2040 Savage Road Charleston SC 29407 - (843) 556-8171 - www.gel.com

Certificate of Analysis

Company : Marziano & McGougan
Address : 1300 Second Ave.
Suite 211
Conway, South Carolina 29526
Contact: Mr. Brian Sexton
Project: Routine Analytical

Report Date: June 9, 2010

Client Sample ID: Special Sample @ Well #2A, 2B, 2C
Sample ID: 251657001
Matrix: Ground Water
Collect Date: 22-APR-10 10:17
Receive Date: 23-APR-10
Collector: Client

Project: MMCG00110
Client ID: MMCG001

Parameter	Qualifier	Result	DL	RL	Units	DF	AnalystDate	Time	Batch	Method
504.1/8011 Analysis of EDB/DBCP										
EDB, DBCP "As Received"										
1,2-Dibromo-3-chloropropane	J	0.0189	0.00596	0.0199	ug/L	1	TXK2 04/30/10	1344	979837	1
1,2-Dibromoethane	U	ND	0.00596	0.0199	ug/L	1				

The following Prep Methods were performed

Method	Description	Analyst	Date	Time	Prep Batch
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	04/30/10	1200	979836
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/04/10	1233	980752
EPA 504.1 PREP	EPA 504.1 Prep Liquid	TXK2	05/20/10	1300	986426

The following Analytical Methods were performed

Method	Description	Analyst Comments
1	EPA 504.1	

Surrogate/Tracer recovery	Test	Result	Nominal	Recovery%	Acceptable Limits
Bromofluorobenzene	EDB, DBCP "As Received"	3.60 ug/L	3.55	101	(76%-124%)

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Report Date: June 9, 2010

Marziano & McGougan
1300 Second Ave.
Suite 211
Conway, South Carolina
Contact: Mr. Brian Sexton

Workorder: 251657

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date Time
504.1/8011 Analysis of EDB/DBCP										
Batch 979837										
QC1202106609 LCS										
1,2-Dibromo-3-chloropropane	0.200			0.192	ug/L		95.8	(70%-130%)	TXK2	04/30/10 13:19
1,2-Dibromoethane	0.200			0.196	ug/L		98	(70%-130%)		
**Bromofluorobenzene	3.57			3.64	ug/L		102	(76%-124%)		
QC1202106610 LCSD										
1,2-Dibromo-3-chloropropane	0.200			0.192	ug/L	0.0418	95.8	(0%-20%)		04/30/10 13:31
1,2-Dibromoethane	0.200			0.194	ug/L	0.881	97.2	(0%-20%)		
**Bromofluorobenzene	3.57			3.66	ug/L		102	(76%-124%)		
QC1202106607 MB										
1,2-Dibromo-3-chloropropane			U	ND	ug/L					04/30/10 13:06
1,2-Dibromoethane			U	ND	ug/L					
**Bromofluorobenzene	3.57			3.59	ug/L		100	(76%-124%)		

Notes:
The Qualifiers in this report are defined as follows:

- ** Analyte is a surrogate compound
- < Result is less than value reported
- > Result is greater than value reported
- A The TIC is a suspected aldol-condensation product
- B For General Chemistry and Organic analysis the target analyte was detected in the associated blank.
- C Analyte has been confirmed by GC/MS analysis
- D Results are reported from a diluted aliquot of the sample
- E Organics--Concentration of the target analyte exceeds the instrument calibration range
- F Estimated Value
- H Analytical holding time was exceeded
- J Value is estimated
- M Matrix Related Failure
- N Organics--Presumptive evidence based on mass spectral library search to make a tentative identification of the analyte (TIC). Quantitation is based on nearest internal standard response factor
- N/A RPD or %Recovery limits do not apply.
- ND Analyte concentration is not detected above the detection limit
- NJ Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier
- P Organics--The concentrations between the primary and confirmation columns/detectors is >40% different. For HPLC, difference is also <70%
- R Sample results are rejected

GEL LABORATORIES LLC
2040 Savage Road Charleston, SC 29407 - (843) 556-8171 - www.gel.com

QC Summary

Workorder: 251657

Parmname	NOM	Sample	Qual	QC	Units	RPD%	REC%	Range	Anlst	Date	Time

U Analyte was analyzed for, but not detected above the MDL, MDA, or LOD.

X Consult Case Narrative, Data Summary package, or Project Manager concerning this qualifier

Y QC Samples were not spiked with this compound

^ RPD of sample and duplicate evaluated using +/-RL. Concentrations are <5X the RL. Qualifier Not Applicable for Radiochemistry.

h Preparation or preservation holding time was exceeded

N/A indicates that spike recovery limits do not apply when sample concentration exceeds spike conc. by a factor of 4 or more.
^ The Relative Percent Difference (RPD) obtained from the sample duplicate (DUP) is evaluated against the acceptance criteria when the sample is greater than five times (5X) the contract required detection limit (RL). In cases where either the sample or duplicate value is less than 5X the RL, a control limit of +/- the RL is used to evaluate the DUP result.
* Indicates that a Quality Control parameter was not within specifications.
For PS, PSD, and SDILT results, the values listed are the measured amounts, not final concentrations.

Where the analytical method has been performed under NELAP certification, the analysis has met all of the requirements of the NELAC standard unless qualified on the QC Summary.

There are no "Data Exception Reports" associated with this analytical report.

Page: ___ of ___
Project #:
GEL Quote #: GEL P10-0258
COC Number (1):
PO Number:

GEL Chain of Custody and Analytical Request

GEL Work Order Number: 251657

GEL Laboratories, LLC
2040 Savage Road
Charleston, SC 29407
Phone: (843) 556-8171
Fax: (843) 766-1178

Client Name: Marziano + McGougan, PA Phone #: 8434880124
Project/Site Name: Town of McBee Well #2 Fax #: 8434880129
Address: 1300 Second Avenue Suite 211; Conway, SC 29526
Collected by: Brian Sexton, PE Send Results To: Brian Sexton P.E.

Page 1 of 9

Sample Analysis Requested (5) (Fill in the number of containers for each test)

Sample ID (* For composites - indicate start and stop date/time)	*Date Collected (mm-dd-yy)	*Time Collected (Military) (hhmm)	QC Code (2)	Field Filtered (3)	Sample Matrix (4)	Should this sample be considered: Radioactive	Should this sample be considered: TSCA Regulated	Total number of containers	<-- Preservative Type (6)	Comments
Special Sample @Well #2 -2A	4-22-10	10:15	N	N	GW	N	N	1		Note: extra sample is required for sample specific QC
" -2B	4-22-10	10:16	N	N	GW	N	N	1		
" -2C	4-22-10	10:17	N	N	GW	N	N	1		
"										

TAT Requested: Normal: Rush: Specify: (Subject to Surcharge) Fax Results: (Yes) / No

Circle Deliverable: C of A / QC Summary / Level 1 / Level 2 / Level 3 / Level 4

Sample Collection Time Zone: Eastern Pacific Central Other ___ Mountain

Remarks: Are there any known hazards applicable to these samples? If so, please list the hazards

Chain of Custody Signatures

	Relinquished By (Signed)	Date	Time	Received by (signed)	Date	Time
1	[signature]	4-22-2010	3:00pm	[signature]	4/23/10	920
2						
3						

Sample Shipping and Delivery Details

GEL PM: Julie Robinson
Method of Shipment: UPS overnight Date Shipped: 4-22-2010
Airbill #:
Airbill #:

For Lab Receiving Use Only
Custody Seal Intact? YES NO
Cooler Temp: 6 C

1.) Chain of Custody Number = Client Determined
2.) QC Codes: N = Normal Sample, TB = Trip Blank, FD = Field Duplicate, EB = Equipment Blank, MS = Matrix Spike Sample, MSD = Matrix Spike Duplicate Sample, G = Grab, C = Composite
3.) Field Filtered: For liquid matrices, indicate with a - Y - for yes the sample was field filtered or - N - for sample was not field filtered.
4.) Matrix Codes: DW=Drinking Water, GW=Groundwater, SW=Surface Water, WW=Waste Water, W=Water, SO=Soil, SD=Sediment, SL=Sludge, SS=Solid Waste, O=Oil, F=Filter, P=Wipe, U=Urine, F=Fecal, N=Nasal
5.) Sample Analysis Requested: Analytical method requested (i.e. 8260B, 6010B/7470A) and number of containers provided for each (i.e. 8260B - 3, 6010B/7470A - 1).
6.) Preservative Type: HA = Hydrochloric Acid, NI = Nitric Acid, SH = Sodium Hydroxide, SA = Sulfuric Acid, AA = Ascorbic Acid, HX = Hexane, ST = Sodium Thiosulfate, If no preservative is added = leave field blank

WHITE = LABORATORY YELLOW = FILE PINK = CLIENT

00436

GEL Laboratories LLC

SAMPLE RECEIPT & REVIEW FORM

Client: MMCG	SDG/AR/COC/Work Order: MMCG 251657
Received By: DIONNE FRANCO	Date Received: 4-23-10

Suspected Hazard Information	Yes	No	*If Counts > x2 area background on samples not marked "radioactive", contact the Radiation Safety Group of further investigation.
COC/Samples marked as radioactive?		✓	Maximum Counts Observed*: 20CPM
Classified Radioactive II or III by RSO?		✓	
COC/Samples marked containing PCBs?		✓	
Shipped as a DOT Hazardous?		✓	Hazard Class Shipped: UN#:
Samples identified as Foreign Soil?		✓	

	Sample Receipt Criteria	Yes	NA	No	Comments/Qualifiers (Required for Non-Conforming Items)
1	Shipping containers received intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
2	Samples requiring cold preservation within (0 ≤ 6 deg. C)?	✓			Preservation Method: (Ice bags) Blue Ice Dry Ice None Other (describe) 6C
2a	Daily check performed and passed on IR temperature gun?	✓			Temperature Device Serial #: 51049919 Secondary Temperature Device Serial # (If Applicable):
3	Chain of custody documents included with shipment?	✓			
4	Sample containers intact and sealed?	✓			Circle Applicable: Seals broken Damaged container Leaking container Other (describe)
5	Samples requiring chemical preservation at proper pH?		✓		Sample ID's, containers affected and observed pH: If Preservation added, Lot#: VIALS
6	VOA vials free of headspace (defined as < 6mm bubble)?	✓			Sample ID's and containers affected:
7	Are Encore containers present?			✓	(If yes, immediately deliver to Volatiles laboratory)
8	Samples received within holding time?	✓			ID's and tests affected:
9	Sample ID's on COC match ID's on bottles?	✓			Sample ID's and containers affected:
10	Date & time on COC match date & time on bottles?	✓			Sample ID's affected:
11	Number of containers received match number indicated on COC?	✓			Sample ID's affected:
12	COC form is properly signed in relinquished/received sections?	✓			
13	Carrier and tracking number.	✓			Circle Applicable: FedEx Air FedEx Ground (UPS) Field Services Courier Other 1Z 385 ERB 03 9620 9592

Comments (Use Continuation Form if needed):

PM or PMA review: Initials _____ Date 4-23-10 Page 1 of 1

List of current GEL Certifications as of 09 June 2010

State	Certification
Arizona	AZ0668
Arkansas	88-0651
CLIA	42D0904046
California - NELAP	01151CA
Colorado	GEL
Connecticut	PH-0169
Dept. of Navy	NFESC 413
EPA Region 5	WG-15J
Florida - NELAP	E87156
Georgia	E87156 (FL/NELAP)
Georgia DW	967
Hawaii	N/A
ISO 17025	2567.01
Idaho	SC00012
Illinois - NELAP	200029
Indiana	C-SC-01
Kansas - NELAP	E-10332
Kentucky	90129
Louisiana - NELAP	03046
Maryland	270
Massachusetts	M-SC012
Nevada	SC00012
New Jersey - NELAP	SC002
New Mexico	FL NELAP E87156
New York - NELAP	11501
North Carolina	233
North Carolina DW	45709
Oklahoma	9904
Pennsylvania - NELAP	68-00485
South Carolina	10120001/10120002
Tennessee	TN 02934
Texas - NELAP	T104704235-07B-TX
U.S. Dept. of Agriculture	S-52597
Utah - NELAP	GEL
Vermont	VT87156
Virginia	00151
Washington	C1641

APPENDIX 2

Construction Cost Estimates

- Well #1 Filtration Additions
- Well #2 Filtration Additions & Upgrades
  - Alternate 1 – On Site Groundwater Treatment
  - Alternate 2 – Proposed 6" Raw Water Main Along US-1

TOWN OF MCBEE
WELL FILTRATION SYSTEM
CONSTRUCTION COST ESTIMATE

WELL #1

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$15,000
2.	Activated Carbon Pressure Vessels	1	LS	$100,000
3.	Green Sand Pressure Vessels	1	LS	$80,000
4.	Site Piping	1	LS	$30,000
5.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$250,000

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$12,500
2.	Basic Services (Engineering Design, etc.)		9.5%	$23,750
3.	Resident Inspection			$10,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$46,250

TOTAL PROJECT COSTS = (A+B)	$296,250

WELL #2 (Alternate 1 - Treat Groundwater On-Site)

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$10,000
2.	Activated Carbon Pressure Vessels	1	LS	$75,000
3.	Green Sand Pressure Vessels	1	LS	$50,000
4.	Site Piping	1	LS	$15,000
5.	Connection to Existing Water System	1	LS	$5,000
6.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$180,000

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$9,000
2.	Basic Services (Engineering Design, etc.)		10.0%	$18,000
3.	Resident Inspection			$10,000
4.	Permanent Generator On-Site (30 kVa)			$20,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$57,000

TOTAL PROJECT COSTS = (A+B)	$237,000

GRAND TOTAL = (WELL #1 + WELL #2-Alt 1)	$533,250

WELL #2 (Alternate 2 - Proposed 6" Raw Water Main Along US-1)

Part A - Construction Costs

A	Project Description	Quantity	Unit	Extended Cost
1.	Bonds, Insurance, Mobilization, and Overhead	1	LS	$10,000
2.	6" PVC C900 Water Main From Well #2 to Well #1	11,000	LF	$165,000
3.	Railroad Crossing - Bore & Jack w/ Steel Casing	1	LS	$25,000
4.	Connection to Well #1 Site Piping	1	LS	$15,000
5.	Instrumentation, SCADA, and Electrical	1	LS	$25,000
	SUB-TOTAL OF CONSTRUCTION COSTS			$240,000

Part B - Engineering Design, Inspection & Other Costs

1.	Contingency (USDA-funded project)		5.0%	$12,000
2.	Basic Services (Engineering Design, etc.)		10.0%	$24,000
3.	Resident Inspection			$10,000
4.	Permanent Generator On-Site (30 kVa)			$20,000
	SUB-TOTAL OF NON-CONSTRUCTION COSTS			$66,000

TOTAL PROJECT COSTS = (A+B)	$306,000

GRAND TOTAL = (WELL #1 + WELL #2-Alt 2)	$602,250

APPENDIX 3

Request for Proposals – Contract Operations for McBee Water System (performed July 2008, revised June 2010)

- Projected Annual Operating Budget for Year 1 – McBee O&M
- Summary of O&M Duties – McBee v/s Private Contractor
- Request for Proposals (sent July 2008 to all Certified Operators within 50 miles of McBee)

Town of McBe

Water System O&M Budgets - Alligator Rural Wate

		Historic \
		FY endin 200
		Operati

1. Revenues from Customers and Miscellaneous Fees

1	Service charges	$
2	Water Bills to McBee Customers	$ 1
3	Water taps	$
4	Miscellaneous deposits	$
5	Reconnections	$
6	Interest Income	$
	TOTALS	$ 1

	Operatin

2. Direct Operation of Water System

Alligator Water - Bulk Water/O&M Charge $

1	O&M Contract Services	$
2	Misc. Repairs and maintenance	$
3	Water pumps	$
4	Salary - Water System ORC	$
5	Payroll Taxes	$
6	Retirement	$
7	Health/Life Insurance; Workers Compensation	$
8	Liability & Equipment Insurance	$
9	Uniforms	$
10	Vehicle & Equipment Maintenance	$
11	Equipment Rental	$
12	Fuel for Vehicle and Equipment	$
13	Professional Services - Electrical & Mechanical; WTP Components	$
14	Hardware & Appurtenances	$
15	Regular Repair, Maintenance & Supplies	$
16	Emergency Repair, Maintenance & Supplies	$
17	Lab Analysis & DHEC Fees	$
18	Utilities - Power for well operation	$
19	Water Treatment Chemicals	$
	TOTALS	$ 98

, South Carolina

'v/s Oliver Environmental, Inc. (UPDATED 10-29-09)

/ater Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.	
6-30	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2008	FY ending 6-30 2008	
Revenue					
166	$ 6,107	$ 50	$ 60	$ 60	
3,587	$ 201,234	$ 226,275	$ 233,100	$ 233,100	
1,750	$ 929	$ 5,732	$ 6,000	$ 6,000	
-	$ 1,000	$ 31	$ 40	$ 40	
750	$ 1,225	$ 1,700	$ 1,800	$ 1,800	
1,667	$ 1,948	$ 2,079	$ 2,200	$ 2,200	
7,920	$ 212,443	$ 235,867	$ 243,200	$ 243,200	
Expenses					
			3%	annual inflation	
			40.8%	proposed rate increase	
1.25	$ 1.25	$ 1.25	$ 1.76	(per 1,000 gallons)	
8,380	$ 79,766	$ 82,168	$ 115,700	$ 36,500	
280	$ 395	$ 800	$ -	$ -	
240	$ 631	$ 229	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ -	$ -	
-	$ -	$ -	$ 500	$ 500	
-	$ -	$ -	$ 2,000	$ 2,000	
-	$ -	$ -	$ 2,000	$ 2,000	
-	$ -	$ -	$ 500	$ 500	
-	$ -	$ -	$ -	$ 6,000	
-	$ -	$ -	$ -	$ 9,700	
-	$ -	$ -	$ -	$ 10,000	
,900	$ 80,792	$ 83,197	$ 120,700	$ 67,200	
			Net Difference	$ 53,500	

Town of McBee

Water System O&M Budgets - Alligator Rural Wate

	Historic W.
	FY ending 2005

3. General and Administration

1	Salaries and wages (Town-Paid Personnel)	$ 1
2	Payroll tax	$
3	Retirement	$
4	Group life/accidental death	$
5	Software maintenance agreement	$
6	Refunds on water deposits	$
7	Due of water bills from deposits	$
8	Bank charges	$
9	Postage	$
10	Office supplies	$
11	Theft expense	$
12	Water project expense	$
13	Insufficient fund charges	$
	TOTALS	$ 24

4. Other Expenses

1	Interest expense (USDA Loan)	$
2	Principal Payment (USDA Loan)	$
3	Debt Service Payment (Financing of Independent Start-Up Requ.)	$
4	Capital Outlay for Elevated Tanks - Future Coatings/Repairs	$
5	Capital Outlay for Future Well & Pipeline Improvements	$
6	Unclassified Items	$
7	Transfer to General Fund	$
	TOTALS	$

Total Operating Expenses	$ 123
Net Operating Income	$ 54

South Carolina

v/s Oliver Environmental, Inc. (UPDATED 10-29-09)

ater Utility Budgets with Alligator Water			Projected Budget with Alligator Water	Projected Budget - Oliver Environmental, Inc.
6-30	FY ending 6-30 2006	FY ending 6-30 2007	FY ending 6-30 2008	FY ending 6-30 2008
,630	$ 22,565	$ 18,244	$ 18,800	$ 18,800
,272	$ 1,726	$ 1,396	$ 1,500	$ 1,500
314	$ 1,738	$ 644	$ 700	$ 700
13	$ 20	$ 16	$ 20	$ 20
,494	$ 1,625	$ -	$ -	$ -
901	$ 436	$ 207	$ 300	$ 300
363	$ 420	$ 269	$ 300	$ 300
416	$ 622	$ 193	$ 200	$ 200
1,371	$ 1,434	$ 1,670	$ 1,800	$ 1,800
-	$ -	$ 143	$ 200	$ 200
-	$ -	$ 4	$ -	$ -
2,147	$ -	$ 28,352	$ -	$ -
-	$ -	$ 31	$ -	$ -
921	$ 30,586	$ 51,169	$ 23,820	$ 23,820
-	$ -	$ 75,332	$ 75,127	$ 75,127
-	$ -	$ -	$ 17,525	$ 17,525
-	$ -	$ -	$ -	$ -
-	$ -	$ -	$ 10,000	$ 10,000
-	$ -	$ -	$ 10,000	$ 10,000
-	$ -	$ 7,461	$ -	$ -
-	$ -	$ -	$ -	$ -
-	$ -	$ 82,793	$ 112,652	$ 112,652
821	$ 111,378	$ 217,159	$ 257,172	$ 203,672
099	$ 101,065	$ 18,708	$ (13,972)	$ 39,528
			Net Savings	$ 53,500

Organizational Chart of Services Performed - Allig

Costs & Services Included in the Daily C

	Duties of Water System ORC
1	Operations, Consulting, and Management
2	General Daily Operation
3	Water System Sampling
4	DHEC Reporting
5	Meter Reading (ALL master meters, residential and commercial readings)
6	Coordination of all services sub-contracted
7	Lab Analysis & DHEC Fees
8	Electricity and Chemicals

Costs & Services NOT Included in the Dail

1	Backflow prevention testing (once annually)
2	Distribution Line Repairs
3	Residential Taps
4	New Line Installation
5	Emergency Response
6	Electrical and Mechanical Maintenance
7	Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.
8	Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.
9	Fire hydrant flushing and blow-off/post hydrant flushing
10	Valve exercise
11	Leak detection

Outside of the Normal Scope of

1	Engineering procurement
2	Grant administration
3	Elevated tank maintenance
4	Capital improvements
5	Well rehabilitations

ıtor Rural Water v/s Oliver Environmental, Inc.				
)&M Contract - EXISTING CONTRACT				
ARW	Subconsultant to ARW	McBee	Currently Not performed	Current Billing Procedures
				$1.25 per 1,000 gallons ($82,200 FY-2008, estimate)
ı O&M Contract - EXISTING CONTRACT				
				Directly Billed to McBEE annually, or as services are performed ($5,000 annually, estimate)
				No direct bill; services performed by Town
				Currently not performed or billed
ervices - Additional Fees Apply				
				Billed to McBEE as services are performed
				capital project financing

Organizational Chart of Services Performed - Allig

Costs & Services Included in the Daily O

	Duties of Water System ORC
1	Operations, Consulting, and Management
2	General Daily Operation
3	Water System Sampling
4	DHEC Reporting
5	Coordination of all services sub-contracted
6	Backflow prevention testing (once annually)

Costs & Services NOT Included in the Daily

1	Distribution Line Repairs
2	Residential Taps
3	New Line Installation
4	Emergency Response
5	Electrical and Mechanical Maintenance
6	Lab Analysis & DHEC Fees
7	Electricity and Chemicals
8	Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.
9	Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.
10	Meter Reading (ALL master meters, residential and commercial readings)
11	Fire hydrant flushing and blow-off/post hydrant flushing
12	Valve exercise
13	Leak detection

Outside of the Normal Scope of

1	Engineering procurement
2	Grant administration
3	Elevated tank maintenance
4	Capital improvements
5	Well rehabilitations

ator Rural Water v/s Oliver Environmental, Inc.				
&M Contract - PROPOSED CONTRACT				
Oliver Env., Inc.	Subconsultant to Oliver Env., Inc.	McBee	Currently Not performed	Current Billing Procedures
				$36,500 annually (Bid Price Received 8-1-2008)
O&M Contract - PROPOSED CONTRACT				
				Directly Billed to McBEE annually, or as services are performed ($5,000 annually, estimate)
				Directly Billed to McBEE annually, or as services are performed ($25,700 annually, estimate)
				No direct bill; services performed by Town
				Currently not performed or billed
ervices - Additional Fees Apply				
				Billed to McBEE as services are performed
				capital project financing

REQUEST FOR PROPOSALS
OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
TOWN OF McBEE, SOUTH CAROLINA

A. RFP General Information

i. The objective of this Request for Proposals (RFP) is to solicit bid prices and summary statements of qualifications from professional water consultants, existing water utilities, and other qualified entities (hereinafter called the OPERATOR), licensed in the State of South Carolina, to provide comprehensive water treatment and distribution Operation and Maintenance services (O&M) to the TOWN OF McBEE. McBEE, located in Chesterfield County, South Carolina, seeks professional services related to the maintenance and operation of the McBEE groundwater supply well(s), treatment systems, and distribution and storage systems in compliance with State and Federal Regulations.

ii. It should be noted that minimal treatment is required to treat the groundwater withdrawn from the Middendorf aquifer to potable status.

B. Basis for Potential Award

i. Responses to this RFP will be used to determine the qualifications of various entities to provide the scope of work and tasks specified. McBEE will conduct a final selection based on the responsive, responsible OPERATOR with the most economical LUMP SUM BID for the proposed services.

ii. McBEE does not guarantee that any OPERATOR will be selected, or contract awarded, for the services described in this RFP. If an OPERATOR is selected by McBEE, McBEE does not make any guarantee when an award would be made for the services described in this RFP.

iii. If an award is granted for the O&M services described in this RFP, McBEE does not guarantee the term of this award for any duration. The OPERATOR's performance will be subject to a detailed review annually. This review will be conducted by representatives of the TOWN OF McBEE and a summary of this review will be made available to the OPERATOR. Any actions deemed necessary to continue, terminate, or alter the contract term will be at the sole discretion of McBEE.

iv. The information contained in the DESCRIPTION OF SERVICE REQUIREMENTS should be used by the OPERATOR to develop an ANNUAL LUMP SUM BID for Operation and Maintenance services, payable in monthly installments. A detailed audit of the documented costs used to determine the LUMP SUM BID will be conducted annually and reviewed by the OPERATOR and the TOWN OF McBEE. The results of this audit will be used to determine if any change in compensation is warranted for the Scope of Services provided in this RFP.

C. OPERATOR Questions Concerning this RFP

i. This RFP contains, in general terms, the overall objectives of McBEE in obtaining the O&M services of a qualified OPERATOR. If it becomes necessary to revise any part of this RFP, amendments will be made available to all potential OPERATORS.

ii. Questions regarding the scope of services for this RFP shall be submitted in writing and directed to the ENGINEER, Brian Sexton, P.E., Marziano & McGougan, P.A. **The deadline for submitting questions regarding this RFP is by close of business July 30, 2008.** All responses to questions, including any significant changes and/or modifications, will be faxed to all parties.

Marziano & McGougan, P.A.
Brian Sexton, P.E.
1300 Second Avenue, Suite 211
Conway, SC 29526
(843) 488-0124 Phone
(843) 488-0129 Fax
E-mail: bsexton@marziano-mcgougan.com

D. OPERATOR's Response to this RFP

i. McBEE is seeking OPERATORS which demonstrate expertise described within this RFP and which demonstrate the ability to provide equipment, personnel and expertise in providing the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS. It is anticipated that an agreement for O&M will be executed between McBEE and the OPERATOR which is determined to best meet the needs of McBEE.

ii. Each OPERATOR providing a proposal for consideration by McBEE is responsible for obtaining information on the conditions, restrictions, and State/Federal regulations involved in providing the O&M services as set forth in this RFP.

iii. RFP responses must include the following materials in order to be considered as a responsive bidder:

- Consultant's statement of qualifications to perform the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS
- Annual LUMP SUM BID to perform the services outlined in the DESCRIPTION OF SERVICE REQUIREMENTS
- Resumes, certifications, and certification numbers of all personnel proposed to coordinate the operations and service requirements on behalf of McBEE
- Water system management approach
- Anticipated schedule of on-site visits
- Man-hour estimates of routine work to be performed on-site and off-site in order to maintain water system compliance
- Estimated routine response time and emergency response time from consultant's operational base to the McBEE Well #1 location near Town Hall

- Schedule of fees for routine maintenance and emergency maintenance (should include personnel and equipment prices separately)
- Proposed method of transferring pertinent water system operational data to McBEE using the existing on-site SCADA telemetry system

iv. The annual LUMP SUM BID must be **exclusive** of all material costs for routine and emergency repairs to the water system. Any routine or emergency repairs to the water system, up to an estimated cost of $5,000, must be performed by the OPERATOR in accordance with the **DESCRIPTION OF SERVICE REQUIREMENTS.**

Any routine or emergency repairs to the water system, with an estimated cost greater than $5,000, may be advertised for competitive bids at the option of McBEE. McBEE can make award to the water system OPERATOR or another bidder after receiving, opening, and evaluating bids. McBEE will conduct a final selection for the repair work based on the responsive, responsible BIDDER with the most economical BID for the proposed services.

v. **RFP responses must be submitted by mail or be delivered in person at the address listed below no later than 4:00 P.M. E.S.T. on August 1, 2008.** Late submittals will not be accepted for consideration. Five (5) copies of the OPERATOR's response must be submitted. Once all submittals have been reviewed, OPERATORs should be prepared to provide additional details and clarifications of their bid, if so requested by McBEE. All submitted responses will be retained and will not be returned.

All responses and supporting materials should be enclosed in a sealed envelope and properly marked as follows, with the name and address of the responding firm on the front of the envelope:

BIDDER'S PROPOSAL - OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
DELIVERED TO McBEE TOWN HALL on _____, 2008 @ _____ a.m. p.m.
Attn: Mr. John Campolong, Town Council
38 W. Juniper Avenue
P.O. Box 248
McBEE, SC 29101
(843) 335-8474 Phone
(843) 335-5163 Fax

DESCRIPTION OF SERVICE REQUIREMENTS
OPERATION AND MAINTENANCE SERVICES
WATER TREATMENT AND DISTRIBUTION SYSTEMS
TOWN OF McBEE, SOUTH CAROLINA

1. TOWN OF McBEE - WATER SYSTEM DESCRIPTION

1.1 McBEE Water System Components

The McBEE water system consists of approximately 80,000 linear feet (15 miles) of PVC water distribution mains located in southern Chesterfield County, South Carolina. The system is supplied through the use of one (1) regular supply well, Primary Well #1, and one (1) emergency/supplemental supply well, Secondary Well #2.

Currently, McBEE has one (1) emergency/supplemental interconnection with the Alligator Rural Water system. The connection to Alligator Rural Water may be terminated once the Secondary Well #2 is on-line.

McBEE serves approximately 385 residential water connections; in addition, the system serves approximately 50 commercial customers. The average daily water demand is approximately 207,000 gallons per day (calendar year 2007). The following components summarize the additional infrastructure in the McBEE water system:

- Primary Well #1 located adjacent to the existing well site near Town Hall (includes emergency generator on site).
- Water treatment plant, consisting of a liquid lime feed system, bulk chemical storage, chlorine gas treatment, and appurtenant SCADA telemetry.
- Secondary Well #2 located near A.O. Smith manufacturing company. This well is currently off-line.
- One 75,000 gallon elevated storage tank located at the Well #1 site.
- One 250,000 gallon elevated storage tank located at A.O. Smith manufacturing company.

1.2 Condition of the Existing McBEE Water System Components

The overall condition of the McBEE water system is considered to be excellent, in "like new" condition. This is because 100% of McBEE's water mains were replaced in 2004 as part of a USDA Rural Development Association (USDA-RDA) project. Additional work performed in 2004 as part of this USDA-RDA project includes the following:

- Construction of a new primary Well #1 located adjacent to the existing well site near Town Hall.
- Construction of a new water treatment plant at the Well #1 site.
- Replacement of all water meters with Sensus radio read meters.
- Repaint of the interior and exterior of both elevated storage tanks.

Secondary Well #2 is currently off-line, but planning is underway to rehabilitate this well and place it back into service in the immediate future. The proposed upgrade to this well includes the following components:

- Addition of gas chlorine disinfection system (chlorine to be stored off site until the well is placed into service)
- Caustic soda chemical 30-day tank (approximately 300 gallons)
- SCADA telemetry system
- Portable generator quick-connection

2. DUTIES OF THE TOWN OF McBEE

The following summarizes the tasks that will be performed by the Town of McBEE in the normal operation and maintenance of the water system and its administration:

2.1 Water System Administration

All of the services described below are currently conducted by McBEE, its personnel and resources.

2.1.1 Receipt of all written and verbal communications from water customers regarding water quality concerns, new tap requests, and general questions regarding the water system and its service to Town of McBEE customers.

2.1.2 Customer billing, mailing and other notifications as required by DHEC and federal EPA requirements.

Monthly water meter reading services are provided by current outside operator. All water meters are radio-read meters and shall be read by McBEE, its personnel and resources.

2.1.3 Monthly water meter reading services for all residential and commercial customers. This information will be used by McBEE to generate monthly water bills.

2.2 Water Distribution/Storage O&M

All of the services described below are currently conducted by McBEE, its personnel and resources.

2.2.1 Fire hydrant flushing and blow-off/post hydrant flushing

2.2.2 Valve exercise program

2.2.3 Leak detection program

2.3 Engineering Procurement and Other Professional Services

2.3.1 Procurement of engineering services related to the expansion of the water distribution system and/or expansion of McBEE's capacity to withdraw and treat water for sale to its customer base.

3. ROUTINE DUTIES OF THE CONTRACT OPERATOR

The following summarizes the tasks that will be performed by the OPERATOR during the normal operation and maintenance of the water system and its administration:

3.1 Regulatory Requirements and Conditions for Reliable Service

3.1.1 OPERATOR shall comply with all requirements of the Safe Drinking Water Act and DHEC.

3.1.2 OPERATOR shall employ sound utility practices to ensure continuous, dependable, and reliable operation of the McBEE well(s) and treatment systems. The OPERATOR must work to minimize the scope and length of any water service disruption.

3.1.3 OPERATOR shall establish and submit an O&M/Water Quality Management Plan. The Plan shall ensure the provision of reliable, cost-effective, and compliant service over the term of the contract. OPERATOR shall maintain and update the Plan as necessary and adhere to its requirements throughout the contract term.

3.1.4 OPERATOR shall generate monthly reports indicating the following:

3.1.4.1 Daily volume of water pumped from Well #1 (and Well #2 when applicable)

3.1.4.2 Daily master meter readings at the interconnection to the Alligator Rural Water System (unless this connection is terminated).

3.2 Public Notification Requirements

3.2.1 OPERATOR shall notify McBEE of any non-compliance immediately upon identification of a problem. For all public notice or customer notification requirements, OPERATOR shall prepare the public notice and provide it in writing to McBEE for review and acceptance. Upon acceptance by McBEE, McBEE will mail and/or publish the public notices to all customers.

3.2.2 If the non-compliance is a result of OPERATOR negligence or violation of the terms of this contract, mailings and other public notices related to the specific non-compliance event will be at the expense of the OPERATOR.

3.3 Water Supply Well and Treatment System O&M

3.3.1 OPERATOR shall employ sound utility practices to ensure continuous, dependable, and reliable operation of the McBEE well(s) and treatment systems. The OPERATOR must work to minimize the scope and length of any water service disruption.

3.3.2 Daily inspection of Well #1 (and Well #2 when operational). This will require in-person examination of the well and treatment system components to ensure proper and safe operation of these facilities, as required by DHEC.

3.4 Water Distribution/Storage O&M

3.4.1 All water mains are to be maintained in accordance with DHEC 61-58.4.D.

3.4.2 In the event that emergency repairs are required as a result of water main failure, all materials used shall be in accordance with DHEC 61-58.4.D.1; all work is to be completed in accordance with DHEC 61-58.4.D.11-16.

3.4.3 All water storage tanks are to be maintained in good working order. Daily visual inspection is required to ensure that water is not overflowing from the tank and to confirm that the tank is secure from any threats to public health, including but not limited to trespassing/climbing of the tank by unauthorized persons, vandalism, and excessive bird roosting/droppings.

3.5 Water Quality Monitoring

3.5.1 OPERATOR shall prepare any and all monthly and annual water quality monitoring reports according to DHEC regulations. OPERATOR is responsible for timely submission of these reports.

3.5.2 OPERATOR shall annually, before January 30th, file with DHEC a water use report of the quantities of groundwater withdrawn in accordance with DHEC 61-113.

3.5.3 OPERATOR shall prepare and submit to McBEE for approval an annual Consumer Confidence Report (CCR) outlining all water quality parameters measured in the McBEE water system. It is the responsibility of the OPERATOR to ensure that appropriate water sampling is maintained throughout the year to comply with all State and Federal requirements regarding the annual CCR.

4. EMERGENCY DUTIES OF THE CONTRACT OPERATOR

The following summarizes the tasks that will be performed by the OPERATOR during the emergency operation and maintenance of the water system and its administration:

4.1 Response to Service Interruptions and Emergencies

4.1.1 OPERATOR shall provide McBEE with a local or toll-free telephone number by which it can be contacted 24 hours a day, 7 days a week, for service requests. This number will connect McBEE to a local dispatcher or equivalent supervisor capable of estimating OPERATOR repair crew arrival time.

4.1.2 OPERATOR shall provide all necessary personnel, equipment, hardware, and tools necessary to repair and/or replace any component of the water system that causes an emergency situation to occur.

4.1.3 OPERATOR must respond to all emergency situations within a period of 24 hours or less. In the event of catastrophic failure to critical system components, time is of the essence and OPERATOR will make good faith efforts to respond as quickly as possible.

4.1.4 Emergency situations are defined as water main breaks, water supply failure, water tank low-level alarm, emergency power failure, as well as circumstances that can cause or will cause endangerment to public health, property damage, non-compliance with DHEC/EPA water quality regulations, and undesired/excessive loss of stored potable water due to a system malfunction.

4.1.5 Aesthetic water quality (taste, odor, cloudiness, sandiness, etc.) will be considered a non-emergency unless the problem persists for more than 24 hours. In the event that the aesthetic concerns persist more than 24 hours, OPERATOR will be required to correct the problem or provide written statement of the cause of the water quality problem(s) and the OPERATOR's justification for no action taken to remedy the issue.

4.1.6 Undue delays in the response time to any emergency will not be permitted. Any damages incurred as a result of negligence or slow response time will be the liability of the OPERATOR. This liability applies to the McBEE water system, private property, public health, enforcement actions taken by DHEC/EPA, or fines imposed by any other agency that has incurred damages as a result of OPERATOR performance.

4.1.7 OPERATOR shall maintain records of all service request calls, documenting the time of the call, time of service response, cause of request, and action taken (including time and date completed). Such records shall be retained for 2 years, and may be reviewed by McBEE upon reasonable notice.

5. LUMP SUM BID

The OPERATOR agrees to provide McBEE with the Scope of Services for Operation and Maintenance services, as described above, for a LUMP SUM BID of:_____ annually, payable in monthly installments.

A detailed audit of the documented costs used to determine the LUMP SUM BID will be conducted annually and reviewed by the OPERATOR and the TOWN OF McBEE. The results of this audit will be used to determine if any change in compensation is warranted for the Scope of Services provided in this RFP.

The OPERATOR agrees to the full performance of the Scope of Services for Operation and Maintenance services, as described in the **DESCRIPTION OF SERVICE REQUIREMENTS** contained herein.

The OPERATOR guarantees this LUMP SUM BID for a period of 90 days from the date of this BID PROPOSAL.

Operator Name:_____

Official Signature:_____

Print Name:_____

Title:_____

Witness:_____

Print Name:_____

Exhibit D

Alligator Rural Water & Sewer Company, Inc.
Established 1987

September 3, 2013

John Campolong
P. O. Box 248
McBee, SC 29101

Dear Mayor Campolong,

We have been informed that the Town intends to begin operation of their water system We have also been informed that when you start up a well or wells that Alligator will serve as your backup water supply. We have informed you, Rural Development and SCDHEC that in the event you do start up a well or wells and put water in your distribution lines we officially will discontinue any and all service to the Town of McBee. Further ARWS will physically disconnect lines ARWS has tied into the Town McBee's water system.

The fact that ARWS will not serve as backup for the Town of McBee has been communicated to the Town, SCDHEC and Rural Development many times in the last 1 years. This is to reiterate our position.

Sincerely,

Robert E Blackwell

Robert E. Blackwell
President, Alligator Rural Water & Sewer

Cc: William O. Spencer, Jr. Esq.
W. Thomas Lavender, Jr. Esq.
Stewart Hucks, Rural Development
Doug Kinard, SCDHEC

Exhibit E

William Botts - Re: Town of McBee

From: William Botts
To: Clarke, Shawn
Date: 3/14/2011 3:52 PM
Subject: Re: Town of McBee

For the record, it looks good to me.

>>> Shawn Clarke 3/14/2011 3:36 PM >>>
Please review and comment so I can pass this along to Mr. Odom. They have a board meeting tonight, and he asked for the clarification question in writing.

Mr. Odom,

Thank you for your email, but I have a couple of questions for clarifications sake. If you could assist me with this bit of clarification, I would appreciate it.

Per our regulations, R.61-58, an "approval to place into operation" is a document that DHEC provides the water system and PE that would allow for a completed construction project to operate and serve the public. And, an "Operating Permit" is a document that is granted to all public water systems that summarizes the drinking water resources a public water system has, along with regulatory citations of the operational and water quality standards the system is required to maintain.

As I read your email, it appears to me that if DHEC approves a new source of water for the Town of McBee via an approval to place into operation, then Alligator Rural Water and Sewer Co. would physically disconnect their water system from the Town of McBee. Is this correct, or would Alligator Rural Water and Sewer Co. physically disconnect from the Town of McBee if DHEC were to simply issue an Operating Permit to the town?

Please note that since the Town of McBee has retained ownership of their well and distribution system, they have been a stand alone water system the entire time they have been in a service contract with Alligator Rural Water and Sewer Company.

>>> "Glenn Odom" <awsc@shtc.net> 3/11/2011 3:08 PM >>>
Mr. Botts,

Alligator Rural Water and Sewer Co. Inc. board of directors has voted in open session that if the Town receives a permit to operate a water system Alligator would not under any circumstances serve as a backup or emergency supply to the Town. I have been instructed by the board upon McBee receiving a DHEC permit to operate that I am to have Alligator's field crew physically dig up the tie between Alligator and McBee and cap off .

Glenn C. Odom
Alligator Rural Water and Sewer Co. Inc.
General Manager

Exhibit F

Alligator Rural Water & Sewer Company, Inc.
Established 1987

April 26, 2011

RECEIVED
APR 28 2011
WATER FACILITIES
PERMITTING DIVISION

Ms. Kimberly Forston
Water Supply & Recreational Waters
Section
Water Facilities Permitting Division
South Carolina Department of Health
And Environmental Control
2600 Bull Street
Columbia, South Carolina 29201

RE: Drinking Water System Operating Permit (Draft)
Town of McBee
Chesterfield County, System #: 1310004

Dear Ms. Forston,

We have received a copy of the draft Drinking Water System Operating Permit for the Town of McBee and would like to offer several comments.

As you know, Alligator Rural Water & Sewer Co. currently supplies potable water to the Town of McBee and operates its public water system (PWS) pursuant to the enclosed agreement. In reliance upon this agreement, Alligator has invested money and incurred considerable debt. The Town's existing groundwater well is inadequate to supply its customers in compliance with the requirements of the SDWA. Moreover, this well has exhibited levels of pesticides/herbicides that have resulted in Alligator taking it off-line. Consequently, the only existing source of potable water to the Town's PWS is from Alligator's distribution system. It should be noted that the attached agreement provides for the operation and maintenance of the Town's PWS and not merely a master meter source of potable water. Thus, in the event the Town elects to terminate the agreement and assume responsibility for operation and maintenance of its PWS, Alligator will no longer be obligated to supply potable water to the Town.

Based upon the foregoing, we urge the Department to include conditions in any PWS permit issued to the Town that compels immediate compliance with applicable provisions of the SDWA as follows:

(a) Amend the first line of Special Conditions II.A.2 to read as follows:

"Prior to assuming responsibility for operating the water system,

the Town shall submit a business plan for approval by the Department. A business plan is defined in the SPDWR as a document consisting of three (3) sub-plans, a"

(b) Amend the last line of the second paragraph of Special Conditions II.B to read as follows:

"analysis. Note that the Town currently does not operate the water system nor have a source of potable water in use. This permit does not authorize a change in the current operating agreement until the Town can demonstrate that it meets the groundwater source requirements described in this paragraph."

(c) Amend the first line of the third paragraph in Special Conditions II.B to read as follows:

"In the event the Town elects to change its current operating agreement and thereafter does not meet the capacity requirements listed above, it shall submit a"

Alligator believes that these conditions are necessary to protect the public health and preserve the integrity of the Town's PWS in the event the Town should elect to terminate the agreement and fail to negotiate a master agreement with Alligator.

We appreciate the opportunity to provide these comments.

Sincerely,

Glenn Odom
General Manager

378 West Pine Avenue**Post Office Box 810**McBee, South Carolina 29101**843-335-6464**Fax 843-335-7720

Exhibit G

William Botts - Review of Town of McBee PER - Request to End Water Purchase Agreement with Alligator Rural Water

From: John "Mark" Noble
To: Botts, William
Date: 6/3/2011 2:06 PM
Subject: Review of Town of McBee PER - Request to End Water Purchase Agreement with Alligator Rural Water
CC: Price, David

We determined through reviewing existing files at DHEC that the Town of McBee is a public water system and its Water Purchase Agreement with Alligator Rural Water is an O&M agreement that spells out the duties ARW provides for the Town.

McBee's desire to end this agreement and enter into what it feels is a more financially feasible plan for the town with another operator could have a negative effect on its long-term sustainability. Prior to this agreement the McBee system consistently received unsatisfactory sanitary survey ratings but ARW has consistently operated the system to eliminate those prior shortcomings.

The PER offers optimistic projections for McBee's future. Wells in this area are beginning to indicate varying levels of EDB, DBCP, radium, MTBE and dry cleaning fluid after water testing. These occurrences should cause the Town to seriously consider the cost and processes necessary to deal with these detects and whether changing operators at such a potentially crucial time is not only warranted but in its citizens best health and financial interests.

Furthermore, the Town does not have a source of water for its citizens should it end its agreement with ARW. That issue still needs to be addressed.

Exhibit H

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary

D H E C
PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner
Promoting and protecting the health of the public and the environment

BOARD:
Henry C. Scott
M. David Mitchell, MD
Glenn A. McCall
Coleman F. Buckhouse, MD

BUREAU OF WATER
****Certified Mail****

June 14, 2011

The Honorable John Campolong
Mayor, TOWN OF MCBEE
PO BOX 248
MCBEE, SC 29101

Re: Drinking Water System Operating Permit
TOWN OF MCBEE
Chesterfield County, System #: 1310004

Dear Mayor Campolong:

All public water systems must obtain and maintain an Operating Permit from the Department in accordance with Regulation [R.61-58.1(O)]. Attached is a copy of the Operating Permit for your water system. A copy of the permit must be maintained by the system. All comments and questions should be directed to my attention at (803) 898-4182.

Here is a summary of the changes from the draft permit:

- Contact name corrected
- Reliable system capacity added
- Groundwater sources added (though not in operation)
- Clarification that last sanitary survey based on Alligator's operation
- Additional "system specific condition" related to the potential to operate the system outside the terms of the current contract with Alligator

This operating permit reflects the reality thatthe Town owns the infrastructure that, under contract, Alligator is currently operating. Nothing in this permit is intended to alter the current contract between the Town and Alligator. Any future changes in the infrastructure will be subject to separate permitting decisions by DHEC.

Sincerely,

Kimberly Forston
Water Supply & Recreational Waters Section
Water Facilities Permitting Division

cc: Florence EQC Office, Drinking Water Program Manager w/ permit
Mark Noble, Capacity Development w permit

STATE OF SOUTH CAROLINA

Public Water System
OPERATING PERMIT

Issued in accordance with the provisions of the State Safe Drinking Water Act (SDWA) (S.C. Code Ann. § 44-55-10 et seq., 1976) and the State Primary Drinking Water Regulations (SPDWR) (R.61-58).

This Permit is Issued to: *TOWN OF MCBEE*
CONTACT: JOHN CAMPOLONG, MAYOR

For the Operation of a Public Water System Serving: *TOWN OF MCBEE*

County: *Chesterfield*

Public Water System Name: *TOWN OF MCBEE*

Permit Number: *1310004*

Date of Issuance: *June 14, 2011*

Jeffrey P. deBessonet, P.E., Director
Water Facilities Permitting Division

D H E C
PROMOTE PROTECT PROSPER
South Carolina Department of Health and Environmental Control

I. DESCRIPTION OF WATER SYSTEM

A. System Type: *Community*

B. Distribution System Classification: *Group III, Distribution Operator Grade "C", or as otherwise designated by the South Carolina Department of Labor, Licensing, and Regulation, Environmental Certification Board*

C. Maximum Number of Allowable Taps: *N/A*

D. Reliable System Capacity: *309,600 gallons per day, based upon the meter capacity*

E. Surface Water Treatment Facilities: *None*

F. Groundwater Sources/Treatment Facilities:

Plant Name	Plant ID	Total Capacity (MGD)	Treatments Applied
McBee Plant #1*	B13012	UNKNOWN	PH ADJ (LIME), GASEOUS CHLORINE

Treatment Facility Classification: *Group II, Treatment Operator Grade D, or as otherwise designated by the South Carolina Department of Labor, Licensing, and Regulation, Environmental Certification Board*

Well Name	Latitude/Longitude	Well ID	Yield (gpm)	Capacity (gpd)	Treatment
Juniper Ave & 6th Street*	Lat 34.4675000 Lon –80.258056	G13177	600	576000	TREATMENT APPLIED AT PLANT

**Well and treatment plant are offline due to EDB detection, and not included in the reliable system capacity analysis.*

G. Master Meter Connections:

Public Water System	DHEC System No.	Location	Reliable Capacity (mgd)
Alligator Rural Water and Sewer Company W13101	1320004	UNKNOWN	0.3096

H. Emergency Sources of Water: *See Section I.G*

I. Distribution Treatment Facilities: *N/A*

J. Storage Capacity:

Type of Storage	Total Capacity
Elevated (million gallons)	0.325
Ground (million gallons)	0
Pressure (thousand gallons)	0

II. SPECIAL CONDITIONS

A. Last Sanitary Survey Rating and Business Plan Requirements

1. The overall rating of the sanitary survey which was conducted by the Department as part of the Alligator Rural Water and Sewer Company, Inc. system on August 26, 2010, prior to the issuance of this operating permit was "Satisfactory". However, should the Town's water system receive an overall rating of "Unsatisfactory" on any future sanitary survey, the Permittee shall submit a business plan to the Department within two (2) months following the issuance of the unsatisfactory rating. Note that Alligator Rural Water and Sewer Company, Inc. was the operator of record during the year leading up to this survey, and the survey result reflects the level of service provided.
2. A business plan is defined in the SPDWR as a document consisting of three (3) sub-plans, a facilities plan a management plan, and a financial plan which is intended to show how a water system will be self-sustaining and have the commitment and the financial, managerial and technical capability to consistently comply with the SDWA and the SPDWR.
3. The definitions of a facilities plan, a management plan, and a financial plan may be found in the SPDWR.
4. The business plan shall include a schedule for achieving compliance with the SDWA and the SPDWR. Once the compliance schedule is approved by the Department, it shall be considered a part of the Operating Permit.

B. System Specific Conditions

The Town of McBee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quantity and quality to ensure compliance.

In the event the Town does not meet the capacity requirements listed above, they are required to submit a Corrective Action Plan to the Department within two (2) months of being notified of the deficiency. The Corrective Action Plan shall include a schedule for achieving compliance with the SDWA and the SPDWR. Once the compliance schedule is approved by the Department, it shall be considered a part of the Operating Permit.

III. GENERAL REQUIREMENTS

A. Duty to Comply

The Permittee shall comply with all applicable portions of the State Safe Drinking Water Act (SDWA) and the State Primary Drinking Water Regulations (SPDWR) to include all conditions and requirements of this permit. Failure to comply with any portion of this permit constitutes a violation of the SDWA and is grounds for enforcement action.

B. Permit Revocation

In accordance with SC Code Ann. § 44-55-120 the Department may revoke this Operating Permit for failure to demonstrate the ability to continue to comply with the SDWA.

C. Maximum Allowable Taps

The number of taps served by the water system shall not exceed the maximum allowable taps specified in Section I of this Operating Permit.

D. Permit Modification

1. The Department may modify this Operating Permit at any time to include all newly promulgated requirements of the SDWA or the SPDWR which are applicable to the public water system, to address requirements necessary to ensure compliance with the SDWA and SPDWR, and to provide updated information as a result of any future permitted construction.

2. The Permittee may request a modification of the Operating Permit at any time with adequate justification.

3. Permit modification will be issued in accordance with R.61-58.1(O)(3).

E. Transfer of Operating Permit

This Operating Permit is non-transferable, except with prior approval of the Department. To obtain Department approval of the transfer of this Operating Permit, the Permittee shall submit written notification to the Department at least thirty (30) days in advance of the proposed transfer. This notification shall include an Operating Permit application form which has been completed by the proposed new owner of the water system. The Department may request that the proposed new owner submit a business plan which shows how the system will be managed to insure its long term viability. If the Department approves the transfer, a new Operating Permit will be issued to the new owner of the system in accordance with R.61-58.1(O)(3).

F. Annual Fee

1. The Permittee shall remit payment of the annual fee to the Department within thirty (30) days of the billing date.

2. The Department **will not** conduct compliance monitoring if the fee remains unpaid at the end of ninety (90) days after the billing date.

G. Construction Permits

An application for a Water Supply Construction Permit shall be made to, and a Water Supply Construction Permit obtained from, the Department before the system can be modified or expanded.

H. Operation and Maintenance

The Permittee shall comply with the operation and maintenance requirements of R.61-58.7.

I. Inspection and Entry

Duly authorized agents of the Department of Health and Environmental Control may enter upon any premises and into any buildings or institutions for the purposes of inspection as provided for or required by State laws or regulations of the Department pursuant to such laws, but the privacy of no person shall be violated. Any person who willfully interferes with or obstructs the officers of the Department in the discharge of any of their duties under this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned not more than thirty days.

J. Emergency Procedures

1. The Permittee shall prepare and maintain an up-to-date emergency preparedness plan in accordance with R.61-58.8(B).

2. The Permittee shall comply with the requirements of R.61-58.8(C) and (D) when operating under emergency conditions.

K. Monitoring and Reporting Requirements

The Permittee shall comply with the monitoring and reporting requirements of the SPDWR.

Exhibit I

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary

DHEC
PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

BOARD:
Henry C. Scott
M. David Mitchell, MD
Glenn A. McCall
Coleman F. Buckhouse, MD

Promoting and protecting the health of the public and the environment

Bureau of Water

June 14, 2011

Mr. Brian Sexton, PE
Marziano & McGougan, P.A.
1300 Second Ave., Ste 211
Conway, SC 29526

RE: Preliminary Engineering Report(PER)
Groundwater Well Evaluation
Town of McBee, Chesterfield County

Dear Mr. Sexton:

This Office has completed review of the above referenced PER. The PER is approved for the conceptual technical aspects of the proposal. The approaches discussed in the PER for developing source water and treating the source water in case of contamination from VOCs and Radium are proven technologies.

However, this approval should not be considered a recommendation of the proposal from a financial standpoint. Please see attached comments on the business plan.

Approval of this PER does not in and of itself constitute approval to build facilities contemplated in the PER, including but not limited to any plans to bring the Town's existing wells back into service. Separate construction permits would be needed and in some situations, coordination with Alligator Rural Water because of the interconnection of the two systems. Any subsequent construction permit applications would be subject to our review and a separate DHEC decision.

Approval of this PER does not effect any changes to the current operational agreement between the Town and Alligator Rural Water.

If you have any questions regarding technical issues, please call me at (803) 898-3818 or email at bottswc@dhec.sc.gov. If you have any questions concerning the business plan, please contact Mr. Mark Noble, (803) 898-3821, or email at noblejm@dhec.sc.gov.

Sincerely,

William C. Botts

William C. Botts, PE
Water Supply & Rec. Waters Permitting Section

CC: Paula Brown, Florence EQC Office
Mark Noble, State Revolving Fund Section
Mr. John Campolong, Mayor, Town of McBee, PO Box 248, McBee, SC 29101
Glenn Odom, Alligator Rural Water

Review of Town of McBee PER (McBee) &
Alligator Rural Water & Sewer Co. (ARW) Comments
June 10, 2011

The PER was received from the Town's consulting engineering firm, Marziano & McGougan P.A., in December of 2010. This PER was written to support the Town's desire to end its long-standing (since Dec. 1999) operations and maintenance contract with ARW.

From 1995 until 1999 the McBee water system received three consecutive unsatisfactory sanitary survey ratings leading up to this O&M agreement with ARW to maintain the system for McBee. DHEC inventory records indicated the McBee system was merged with ARW system when this O&M agreement was initiated and the systems were then one system: However, during this PER review we noted McBee was still an independent system whose only connection to ARW is this agreement.

Since this agreement's inception subsequent sanitary surveys have been satisfactory; however, keep in mind those sanitary surveys cover the entire 'merged' system composed of McBee and ARW but no operational issues have been noted. McBee has significant debt outstanding to USDA Rural Development (RD) for financing its system upgrades. It should be noted here that the final item of Article III, #9, of the O&M agreement between these entities states the O&M "agreement is pledged to the United States of America acting through the United States Department of Agriculture as part of security for a loan to the Purchaser and Seller from USDA, Rural Development". The purchaser is McBee and the seller is ARW; this indicates the loan's security lies with both entities, thereby complicating McBee's desires to hire a different operator.

McBee's well #1 was placed offline by ARW in 2009 when "contaminants" were discovered during routine water sampling. This well is still offline and other wells in the system area are showing varying levels of EDB, DBCP, radium, MTBE and dry cleaning fluid, although all detects appear to be under the MCLs so far.

The financial projections in the PER if McBee uses another operator indicate noticeable financial savings for McBee, however we feel these savings appear to be overly optimistic. Electricity to operate a 'well' is projected to annually be $9700; however, ARW provided Progress Energy bills for Well #1 in calendar year 2008 totaling $13,235 (one well for one year). McBee's plans to add another well will generate much more costly electricity billings than $9700 annually.

The PER indicates McBee and ARW are embroiled in bitter disputes over their future relationship, but ARW claims no such disputes are ongoing now: McBee claims looming rate increases by ARW, who claims no knowledge of such rate increases. McBee hopes to finance its second well with a $600,000 loan package through RD at a reported interest rate of 3.25% but ARW claims that same well will cost $850,000 and the current going RD rate is 4.50%, thereby increasing the debt service costs to McBee considerably. Exhibit F in ARW's response is a funds obligation letter from RD to ARW offering carbon filter system, ground storage tank, booster pump station and treatment system financing at 2.25%.

In comparison ARW has a benefit of numerous wells, a large service territory and customer base to fall back on in cases of more contamination, this economies of scale is a luxury that McBee and its paying customers will not enjoy.

Exhibit J

BOARD:
Paul C. Aughtry, III
Chairman
Edwin H. Cooper, III
Vice Chairman
Steven G. Kisner
Secretary

D H E C

PROMOTE PROTECT PROSPER

C. Earl Hunter, Commissioner

Promoting and protecting the health of the public and the environment

BOARD:
Henry C. Scott
M. David Mitchell, MD
Glenn A. Mc
Coleman F. Buckhouse, MD

August 12, 2011

Mr. J. Anthony Floyd
Floyd and Gardner, PC
305 West Carolina Ave.
Hartsville, SC 29550

RE: Town of McBee Water System
Guidance on recently issued drinking water operating permit
Drinking Water System #: 1310004

Dear Mr. Floyd:

Recently we issued an operating permit (dated June 14, 2011) to the Town of McBee. Based on your letter of August 8, 2011 and a conversation with our regional office, I want to write to clarify some issues and provide some guidance to the Town.

The purpose of the operating permit was to reflect the legal reality that the Town is the owner of the water system (recognizing that Alligator owns its own system, also). While our regional office may have asked for some information about the system, actually, we don't need that information (e.g., water production records, valve maintenance records, etc.). That was a mix-up between two different parts of DHEC.

While the Town owns the system in question and has ultimate responsibility for the system, we understand that the Town has a contract operator via Alligator. This is a suitable arrangement and many other towns have contract operators. Therefore, DHEC is content with the current arrangement. DHEC is not requiring or encouraging the Town to pursue a different operator or to propose operation by the Town's own employees.

We also understand that the current contract between the Town and Alligator links Alligator's operational responsibility as a contractor with their provision of water – fed from their own sources of water. Alligator has indicated that it will continue to provide water to the McBee system under the condition that Alligator operates the system (consistent with the current contract and identified in the Town's Operating Permit dated June 14, 2011 – see attachment). Therefore, our concern is that if the Town were to replace Alligator as operator, this may lead to Alligator refusing to provide water to the McBee system.

Now, concerning the December 2010 preliminary engineering report that DHEC recently approved, we understand that in the future, the Town may want to pursue being an independent system (without reliance on Alligator's water supply and without reliance on Alligator as an operator). If the Town were to do so, it proposed to construct certain facilities to put it in position to be able to stand-alone. Those activities would require a DHEC construction permit at some future time to determine that the construction plans met our requirements.

In summary, we regret if we provided any mixed signals to the Town. I hope this letter clarifies DHEC's regulatory expectations. We are concerned that the Town is pursuing a different contract operator because the Town does not yet have the capability to be independent of Alligator's source of water.

I can be reached at 803-898-4157 or at debessjp@dhec.sc.gov.

Sincerely,

Jeffrey P. deBessonet, P.E., Director
Water Facilities Permitting Division

cc: Paula Brown, Florence EQC Office
Shawn Clarke
Glenn Odom, Alligator Rural
Mayor Campolong, Town of McBee

Exhibit K

MBD CONSULTING ENGINEERS, P.A.

May, 8 2014

Ms. Tracy L. Scott
Bureau of Water
Drinking Water Compliance Section
SC DHEC
2600 Bull Street
Columbia, SC 29201

RE: McBee Well No. 1 and 2
GAC Contactor Addition
Chesterfield County
MM Project No. 38005/300

Dear Ms. Scott:

Thank you for your recent phone call and the opportunity to discuss the Town of McBee GAC Addition at the Town's existing wells. Below, we have addressed the issues and concerns that we discussed and were included in your email.

The Town of McBee operated its own water system until it began receiving service from Alligator Water. During the first years of contract service, Alligator utilized one of the town's wells and left the second in disrepair. Eventually, Alligator stopped using the McBee Well. For primarily financial reasons, the Town has made the decision to place their existing well production system back into service. We originally submitted plans and specifications to upgrade Well No. 2 and make it operational. During the design period, we performed testing on both wells and found trace amounts of EDB and DBCP. The results from the sampling indicated that both wells were below the MCL for the compounds but the decision was made to install GAC treatment to remove the remaining amount. The results from the testing are shown below.

WELL NO. 1

PARAMETER	MCL	11-Nov-13	19-Nov-13
DBCP	0.2 PPB	0.0069 PPB	ND
EDB	0.05 PPB	ND	ND
RADIUM	5 pCi/L	3.77 pCi/L	2.01 pCi/L

WELL NO. 2

PARAMETER	MCL	11-Nov-13	19-Nov-13
DBCP	0.2 PPB	0.031 PPB	0.0256 PPB
EDB	0.05 PPB	0.027 PPB	0.024 PPB
RADIUM	5 pCi/L	2.36 pCi/L	1.8 pCi/L

RECEIVED
MAY 13 2014
Bureau of Water
Drinking Water Protection Division

MBD Consulting Engineers, P.A.
1300 Second Ave, Ste. 211 Conway, SC 29526 p.843-488-0124 f.843-488-0129

We have coordinated the treatment of the well water to remove EDB and DBCP with a Granulated Activated Carbon (GAC) manufacturer. We contacted Calgon Carbon, a company we have worked with on three large water treatment plant GAC system designs as well as a small, private treatment system in the McBee area (to address the same concern). Calgon was provided with the test results and recommended the use of Calgon OLC 1240 for the treatment process. Based on Calgon's calculations, the utilization rate for the GAC would be 0.066 lbs of GAC per 1000 gallons of water treated. The GAC media weighs approximately 30 lbs per cubic foot.

The design calculations submitted indicated that each well would operate 24 hours per day when calculating the GAC utilization. In actuality, the wells will operate between 6 and 8 hours per day. Based on a 24 hour per day pumping cycle, Well No. 1 would use 231 cubic feet of GAC per year and Well No. 2 would use 116 cubic feet per year. Well No. 1 design included 366 cubic feet of media divided between two tanks and Well No. 2 included 241 cubic feet of media divided between two tanks. Based on the anticipated flow rates and current levels of EDB and DBCP, the media should last for over 2 years. We have budgeted for media replacement on an annual basis. Samples will indicate any breakthrough in the media.

The plans also include flow through calculations for the tanks. Sheets G-3 and G-4 include the loading in gallons per minute per square foot and the Empty Bed Contact Time (EBCT) for each tank.

The design submittal was prepared by this office and forwarded to you by the Town of McBee once the permit was signed. The submittal should have included Specification Section 11225 Granular Activated Carbon Media for the GAC to be provided for the project and Specification Section 11225C Pressure Adsorption Vessels for the two pressure tanks to be provided. I have included the two specification sections with this letter.

The Town of McBee and MBD appreciates the assistance of SC DHEC on this project. If we can provide any additional information to assist you in your review, please contact me by cell phone at (843) 995-1513 or via email at jmcgougan@mbd-eng.com.

Sincerely,

Joseph W. McGougan, P.E.
President, MBD Consulting Engineers, P.A.

Exhibit L

D H E C

PROMOTE PROTECT PROSPER

Catherine B. Templeton, Director

Promoting and protecting the health of the public and the environment

September 11, 2014

Mr. John Campalong
Town of McBee
PO Box 248
McBee, SC 29101

Re: Town of McBee Sanitary Survey
(DHEC System # 1310004)

Dear Mayor Campalong:

This letter is a summary of the August 21, 2014 inspection of the Town of McBee water system. Thanks to you and Joey Oliver for your cooperation and assistance during the inspection.

The Town of McBee water system is a Community (Type C) water system. The McBee system has a total of 423 taps and serves a population of 856. The Town of McBee currently purchases water from Alligator Rural Water system through a master meter connection. There is a total of 320,000 gallons of elevated storage. The Town of McBee is in the process of applying for funding to enable them to install treatment on their two wells in order to produce their own water. Please note, before this is done, the Town of McBee must demonstrate ability to provide adequate capacity and water that complies with State Primary Drinking Water Regulations. The Bureau of Water must be notified and approve the sources and treatment prior to placing Town of McBee wells into service.

When evaluated according to the standards of the State Primary Drinking Water Regulations (SPDWR), the Town of McBee is rated Satisfactory. The following items need to be addressed to maintain compliance with SPDWR. Please respond to these items in writing within 15 days.

1. Updates to the system map are in progress. The map must include water sources, line locations and sizes, storage tanks, valves and fire hydrants.

2. The Town Hall elevated storage tank will need renovation in the near future. Please begin securing funding for this project.

3. Please complete the water audit and forward a copy with your response. Water Audit software is available at http:///www.awwa.org.

4. All valve operation must be documented. Documentation must include valve type, date of exercise, number of turns to close, and a record of maintenance work to each valve.

Please e-mail brownpr@dhec.sc.gov or call (843) 661-4825 if you have any questions or need assistance.

Sincerely,

Paula R. Brown

Paula R. Brown
BEHS Pee Dee - Florence

Cc: Buck Graham, CPM, Director, BEHS Pee Dee - Florence
Danelle Watson, BEHS Pee Dee - Florence
Bureau of Water
File

C

Re-order from Bushnell Company
(215) 842-9520
www.BushnellCo.com

RECYCLED PAPER
RECYCLABLE

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. 16-ALJ-07-0082-CC **AFFIDAVIT OF JOAN HARTLEY**

PERSONALLY APPEARED BEFORE Joan Hartley, who, after being duly sworn, deposes and says that:

1. I am special counsel in the firm of Nexsen Pruet, LLC, 1230 Main Street, Suite 700, Columbia, South Carolina 29201. I am an attorney of record in this matter and submit this affidavit in support of Petitioner A.O. Smith Corporation's Response in Opposition to Town of McBee's Motion for Relief from Stay.

2. Our firm also represents A.O. Smith Corporation in its motion to intervene in a case pending in the Court of Common Pleas for the County of Chesterfield and captioned Town of McBee v. Alligator Rural Water & Sewer Company, Inc. and Alligator Rural Water Company, Inc., Civil Action 2015-CP-13-379 ("State Court Action").

3. The following documents attached hereto are true and correct copies of documents filed in the State Court Action:

Exhibit 1 - Summons and Verified Complaint filed on June 17, 2015;

Exhibit 2 - Answer and Counterclaim filed on August 17, 2015;

Exhibit 3 - A.O. Smith Corporation's Notice of Motion and Motion to Intervene filed February 2, 2016; and

Exhibit 4 - Consent Order Prohibiting Defendants from Providing Water Services to A.O. Smith While Litigation is Pending issued July 31, 2015.

FURTHER AFFIANT SAYETH NOT.

Joan W. Hartley

SWORN and subscribed to before me
this 5th day of April, 2016.

Karen M Thornhill (L.S.)
Notary Public for South Carolina
My Commission Expires: 3/25/24

Exhibit 1

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)
)
Town of McBee)
Plaintiff(s))
)
vs.)
Alligator Rural Water & Sewer Company, Inc.)
Alligator Rural Water Company, Inc.)
Defendant(s))

IN THE COURT OF COMMON PLEAS

FOURTH JUDICIAL CIRCUIT

CIVIL ACTION COVERSHEET

2015-CP-13 319

FAYE L. STILL
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.
2015 JUN 17 AM 11 04

Submitted By: Richard E. McLawhorn, Jr.
Address: Sweeny, Wingate & Barrow, P.A.
115 Cargill Way, Ste. B
Hartsville, SC 29550

SC Bar #: 100179
Telephone #: (843) 878-0390 x7183
Fax #: (843) 878-0393
Other:
E-mail: rem@swblaw.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (*Check all that apply*)

**If Action is Judgment/Settlement do not complete*

☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.

☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.

☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.

☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (*Check One Box Below*)

Contracts	Torts - Professional Malpractice	Torts – Personal Injury	Real Property
☐ Constructions (100)	☐ Dental Malpractice (200)	☐ Assault/Slander/Libel (300)	☐ Claim & Delivery (400)
☐ Debt Collection (110)	☐ Legal Malpractice (210)	☐ Conversion (310)	☐ Condemnation (410)
☐ Employment (120)	☐ Medical Malpractice (220)	☐ Motor Vehicle Accident (320)	☐ Foreclosure (420)
☐ General (130)	Previous Notice of Intent Case #	☐ Premises Liability (330)	☐ Mechanic's Lien (430)
☐ Breach of Contract (140)	20__-NI-_____	☐ Products Liability (340)	☐ Partition (440)
☐ Other (199)	☐ Notice/ File Med Mal (230)	☐ Personal Injury (350)	☐ Possession (450)
	☐ Other (299)	☐ Wrongful Death (360)	☐ Building Code Violation (460)
		☐ Other (399)	☐ Other (499)

Inmate Petitions	Administrative Law/Relief	Judgments/Settlements	Appeals
☐ PCR (500)	☐ Reinstate Drv. License (800)	☐ Death Settlement (700)	☐ Arbitration (900)
☐ Mandamus (520)	☐ Judicial Review (810)	☐ Foreign Judgment (710)	☐ Magistrate-Civil (910)
☐ Habeas Corpus (530)	☐ Relief (820)	☐ Magistrate's Judgment (720)	☐ Magistrate-Criminal (920)
☐ Other (599)	☐ Permanent Injunction (830)	☐ Minor Settlement (730)	☐ Municipal (930)
	☐ Forfeiture-Petition (840)	☐ Transcript Judgment (740)	☐ Probate Court (940)
	☐ Forfeiture—Consent Order (850)	☐ Lis Pendens (750)	☐ SCDOT (950)
	☐ Other (899)	☐ Transfer of Structured Settlement Payment Rights Application (760)	☐ Worker's Comp (960)
		☐ Confession of Judgment (770)	☐ Zoning Board (970)
		☐ Petition for Workers Compensation Settlement Approval (780)	☐ Public Service Comm. (990)
		☐ Other (799)	☐ Employment Security Comm (991)
			☐ Other (999)

Special/Complex /Other	
☐ Environmental (600)	☐ Pharmaceuticals (630)
☐ Automobile Arb. (610)	☐ Unfair Trade Practices (640)
☐ Medical (620)	☐ Out-of State Depositions (650)
☒ Other (699)	☐ Motion to Quash Subpoena in an Out-of-County Action (660)
	☐ Sexual Predator (510)

Submitting Party Signature: [signature] Date: 6/17/15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)

4. Cases are exempt from ADR only upon the following grounds:

    a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

    b. Requests for temporary relief;

    c. Appeals

    d. Post Conviction relief matters;

    e. Contempt of Court proceedings;

    f. Forfeiture proceedings brought by governmental entities;

    g. Mortgage foreclosures; and

    h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: **You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA	)	FOURTH JUDICIAL CIRCUIT
	)	
COUNTY OF CHESTERFIELD	)	CIVIL ACTION NUMBER:
	)	
Town of McBee,	)	2015 - CP-13 319
	)	
Plaintiff,	)	
	)	SUMMONS
v.	)	
	)	
Alligator Rural Water & Sewer Company, Inc., Alligator Rural Water Company, Inc., and	)	
	)	
Defendants.	)	

2015 JUN 17 AM 11 04
FAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

YOU ARE HEREBY SUMMONED and required to answer the Verified Complaint ("Complaint") in this action, a copy of which is hereby served upon you, and to serve a copy of your answer to the said Complaint upon the subscribers at 115 Cargill Way, Suite B, Hartsville, South Carolina 29550, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, Plaintiff will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you for the relief demanded in the Complaint.

SWEENY, WINGATE & BARROW, P.A.

Martin S. Driggers, Jr.
Richard E. McLawhorn, Jr.
115 Cargill Way
Suite B
Hartsville, South Carolina, 29550
(843) 878-0390
ATTORNEYS FOR TOWN OF MCBEE

Hartsville, South Carolina
June 16, 2015

FILED
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

STATE OF SOUTH CAROLINA)	FOURTH JUDICIAL CIRCUIT
)	
COUNTY OF CHESTERFIELD)	CIVIL ACTION NUMBER:
)	2015 - CP-13-316
Town of McBee,)	
)	
Plaintiff,)	VERIFIED COMPLAINT
)	
v.)	
)	
Alligator Rural Water & Sewer Company, Inc.,)	
Alligator Rural Water Company, Inc., and)	
)	
Defendants.)	

2015 JUN 17 AM 11 04
FAYE L. SELLERS
CHESTERFIELD

Plaintiff, Town of McBee ("McBee"), states for its Complaint against defendants as follows:

NATURE OF THE ACTION

1. This action is based on violations of South Carolina law and 7 U.S.C.A. § 1926(b) of the Consolidated Farm and Rural Development Act of 1961 (7 U.S.C.A. §§ 1921 et seq.). 7 U.S.C.A. § 1926(b) prohibits any public or private body from providing water service within the boundaries of any area already serviced by a rural water association indebted to the United States Department of Agriculture/Rural Development, (formerly the Rural Economic and Community Development Service ("RECDS")) during the term of such indebtedness. In this action, McBee seeks to enforce its rights and the protections granted pursuant to South Carolina law and 7 U.S.C.A. § 1926(b) by declaratory judgment and injunctive relief.

PARTIES, JURISDICTION, AND VENUE

2. McBee, is a municipal corporation organized and existing under the laws of the State of South Carolina. McBee provides water service in its city limits and areas adjacent and contiguous to the Town of McBee, including a manufacturing facility owned and operated by A. O. Smith Corporation ("A. O. Smith") located at 25589 U.S. 1, McBee, Chesterfield County, South Carolina 29101.

3. Alligator Rural Water & Sewer Company, Inc. and Alligator Rural Water Company, Inc. ("Alligator Defendants" or "Alligator") are South Carolina corporations and have their principal place of business at 378 W. Pine Avenue, McBee, Chesterfield County, South Carolina, 29101.

4. This court has jurisdiction to hear the claims.

5. Venue is proper because McBee is located in Chesterfield County, A. O. Smith owns and operates a manufacturing facility in Chesterfield County, Alligator Defendants' principal place of business is in Chesterfield County, and the subject service area and subject water facilities exist in Chesterfield County.

FACTUAL ALLEGATIONS

6. McBee currently provides water services to areas within the town's municipal limits, and areas outside its municipal limits, including A. O. Smith.

7. McBee has provided water to A. O. Smith since A. O. Smith's opening.

8. A. O. Smith's business currently accounts for approximately 70% of McBee's water system revenue.

9. McBee is an obligor to the United States of America, Department of Agriculture, Rural Development (here referred to as the "USDA/RD"), on certain indebtedness made pursuant to and authorized by the Consolidated Farm and Rural Development Act of 1961, 7 U.S.C.A. §§ 1921 et seq.

10. On or about February 10, 2005 McBee became indebted to the USDA/RD. This indebtedness arises by virtue of USDA/RD's purchase of $1,456,800 in Water Bond Series 2005A bonds issued by McBee at a 4.50% interest rate. The bonds range in maturity from 2006 to 2045. Additionally, on or about February 10, 2005, McBee became further indebted to the USDA/RD through the USDA/RD's purchase of $172,200 in Water Bond Series 2005B bonds issued by McBee at 4.375%. The bonds range in maturity dates from 2006 to 2045. Finally, on or about August 24, 2006, McBee became further indebted to the USDA/RD through the USDA/RD's purchase of $75,000 Water Bond Series 2006

bonds issued by McBee at 4.50%. The bonds range in maturity dates from 2007 to 2046. To secure these debts, McBee has pledged its water service revenues. This indebtedness remains in full force and effect.

11. McBee operates a water distribution system in Chesterfield County, South Carolina. This water distribution system extends to an area of land fronting U.S. 1 and located adjacent to A. O. Smith.

12. McBee currently owns and operates water lines that provide water service to A. O. Smith.

13. On June 14, 2015, McBee learned that Alligator intended to provide water service to A. O. Smith. McBee is informed and believes, and on the basis of such information and belief alleges, that Alligator claim the right to service this territory based on the existence of a right of way to A. O. Smith that fronts along U.S. 1.

14. As alleged in more detail below, the proposed water supply from Alligator will curtail or limit the service and supply of water to customers and areas served by McBee in violation of 7 U.S.C.A. § 1926(b).

15. In the alternative, the proposed water supply to A. O. Smith is in violation of South Carolina law.

FIRST CLAIM FOR RELIEF
Violation of 7 U.S.C.A. § 1926(b)

16. McBee incorporates by reference each and every allegation in paragraphs 1 through 15, above, as though set forth in full here.

17. Alligator has manifested its intent to limit and encroach upon areas served by McBee.

18. Alligator's actions are in violation of 7 U.S.C.A. § 1926(b).

19. 7 U.S.C.A. § 1926(b) protects rural water associations from encroachment by any other entity seeking to provide service in areas already being serviced. 7 U.S.C.A. § 1926(b) provides as follows:

> The service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the happening of such event be the basis of requiring such association to secure the franchise, license, or permit as a condition to continuing to serve the area by the association at the time of the occurrence of such event.

Thus, 7 U.S.C.A. § 1926(b) prohibits other entities from curtailing or limiting water service provided by or made available by any rural water association indebted to USDA/RD (formerly the Rural Economic and Community Development Service ("RECDS") and formerly Farmers Home Administration ("FmHA")), during the term of such indebtedness.

20. McBee is an "association" within the meaning of 7 U.S.C.A. § 1926(b), is indebted to USDA/RD, and, at all times material, has provided, and is able to make available, water service to A. O. Smith.

21. Accordingly, McBee is entitled to the rights, privileges, and protections granted by 7 U.S.C.A. § 1926(b).

22. Alligator's actions and intended and proposed action to provide water service to A. O. Smith will curtail or limit the service and supply of water to customers and areas served by McBee and make it impossible for McBee to repay the loan to USDA/RD in violation of 7 U.S.C.A. § 1926(b).

23. McBee is entitled to declaratory judgment pursuant to 28 U.S.C.A. §§ 2201 and 2202. There exists a dispute and actual controversy between the parties that cannot be resolved absent declaratory relief by this court. McBee is entitled to a declaratory judgment, declaring the rights and legal relations of the parties as follows:

(a) That McBee is an "association" within the meaning of 7 U.S.C.A. § 1926(b), is currently indebted to the USDA/RD, and, at all times material, has provided and made available water service to A. O. Smith in the County of Chesterfield;

(b) That McBee is entitled to the rights, privileges, and protections granted under 7 U.S.C.A. § 1926(b) during the term of the USDA/RD indebtedness;

(c) That A. O. Smith is contained within areas already serviced by McBee; and

(d) That the actions of Alligator and all those acting in concert with Alligator in providing water service or attempting to provide water service to A. O. Smith and any other areas included in the area served by McBee will unlawfully curtail or limit McBee's service in violation of 7 U.S.C.A. § 1926(b).

SECOND CLAIM FOR RELIEF
(Violation of S.C. Code Ann. § 33-26-270)

24. McBee incorporates by reference each and every allegation in paragraphs 1 through 23, above, as though set forth in full here.

25. Alligator is a nonprofit corporation created pursuant to S. C. Code Ann. § 33-36-210 et seq.

26. S.C. Code Ann. § 33-36-270(A) empowers nonprofit corporations to engage in the business of supplying water or sewage disposal.

27. S.C. Code Ann. § 33-26-270(B) requires that prior to providing water services, the nonprofit corporation must

> notify the governing body of the county or municipality in which the service is to be provided of its intention and the nature of the service. The governing body shall have a period of ninety days from the date of the notification to approve the request to provide the services or inform the person requesting permission to provide the service that the governing body intends to provide for the service as a public function of government. The notification of intent by the governing body must include a detailed description of the area to be served, the services to be provided, and the time schedule under which the service will be available from the county or municipality.

28. Alligator has manifested its intent to provide service to an area contained within areas McBee is already providing water service.

29. Upon information and belief, no notice has been provided either to the Town of McBee or to Chesterfield County regarding Alligator's desire to provide water services to A. O. Smith Corporation.

30. Alligator, therefore, has not complied with S.C. Code Ann. § 33-26-270(B)'s requirements.

31. McBee is entitled to declaratory judgment pursuant to S.C. Code Ann. § 33-26-270(B). There exists a dispute and actual controversy between the parties that cannot be resolved absent declaratory relief by this court. McBee is entitled to a declaratory judgment, declaring the rights and legal relations of the parties as follows:

(a) That McBee provides water services to A. O. Smith;

(b) That McBee has the paramount and exclusive right to provide water service to A. O. Smith; and

(c) That the action of Alligator and all those acting in concert with Alligator, in providing water service or attempting to provide water service to A. O. Smith and any other area or areas included in the area served by McBee is in violation of S.C. Code Ann. § 33-26-270(B).

THIRD CLAIM FOR RELIEF

32. McBee incorporates by reference each and every allegation in paragraphs 1 through 31, above, as though set forth in full here.

33. McBee has demonstrated a strong likelihood of success on the merits in this case.

34. Should Alligator continue its unlawful actions in violation of 7 U.S.C.A. § 1926(b) and/or S.C. Code Ann. § 33-26-270(B), McBee will suffer irreparable harm through the loss of 70% of its water system revenue.

35. McBee has no adequate remedy at law.

36. The issuance of a preliminary and permanent injunction will not cause substantial harm to Alligator or those acting in concert with Alligator.

37. McBee is entitled to preliminary and permanent injunctive relief as follows:

(a) Enjoining Alligator, and all those in active concert with Alligator, from taking any further action to supply water or attempt to supply water to A. O. Smith or any other area or areas included in the area served by McBee in violation of 7 U.S.C.A. § 1926(b) and/or S.C. Code Ann. § 33-26-270(B);

(b) Enjoining Alligator, and all those in active concert with Alligator, from taking any further action that will serve to curtail or limit water service provided by McBee in violation of 7 U.S.C.A. § 1926(b) and/or S.C. Code Ann. § 33-26-270(B); and

(c) Enjoining Alligator, and all those in active concert with Alligator, from taking any further action in violation of the declaratory judgments granted in this action.

WHEREFORE, McBee demands the following relief:

1. Judgment in favor of McBee on all claims for relief asserted in this complaint;

2. Declaratory judgment in favor of McBee pursuant to 28 U.S.C.A. §§ 2201 and 2202 as follows:

(a) That McBee is an "association" within the meaning of 7 U.S.C.A. § 1926(b), is currently indebted to the USDA/RD, and, at all times material, has provided or made available water service to A. O. Smith;

(b) That McBee is entitled to the rights, privileges, and protection granted under 7 U.S.C.A. § 1926(b) during the term of McBee's USDA/RD indebtedness;

(c) That McBee is currently providing water services to A. O. Smith; and

(d) That the actions of Alligator, and all those acting in concert with Alligator, in providing water service or attempting to provide water service to A. O. Smith or any other area

or areas included in the water service area of McBee will unlawfully curtail or limit McBee's service in violation of 7 U.S.C.A. § 1926(b).

3. In the alternative, a declaratory judgment in favor of McBee pursuant to 28 U.S.C.A. §§ 2201 and 2202 as follows:

(a) That McBee provides water services to A. O. Smith;

(b) That McBee has the paramount and exclusive right to provide water service to A. O. Smith; and

(c) That the actions of Alligator, and all those acting in concert with Alligator, in providing water service or attempting to provide water service to A. O. Smith and any other area or areas served by McBee is in violation of S. C. Code Ann. §33-26-270(B).

4. Preliminary and permanent injunctive relief in favor of McBee as follows:

(a) Enjoining Alligator, and all those in active concert with Alligator, from taking any further action to supply water or to attempt to supply water to A. O. Smith in violation of 7 U.S.C.A. § 1926(b) and/or S.C. Code Ann. § 33-26-270(B);

(b) Enjoining Alligator, and all those in active concert with Alligator, from taking any further action that will serve to curtail or limit water service provided by McBee to A. O. Smith or any other areas already served by McBee, in violation of 7 U.S.C.A. § 1926(b) and/or S.C. Code Ann. § 33-26-270(B); and

(c) Enjoining Alligator, and all those in active concern with Alligator, from taking any further action in violation of the declaratory judgment granted in this action.

5. An award to McBee of its costs and reasonable attorney's fees; and

6. Granting McBee such other and further relief as the court deems just and proper.

[SIGNATURE PAGE FOLLOWING]

This 16th day of June, 2015.

Respectfully submitted,

SWEENY, WINGATE & BARROW, P.A.

Martin S. Driggers, Jr.
Richard E. McLawhorn, Jr.
115 Cargill Way, Suite B.
P.O. Box 68
Hartsville, SC 29551
P: (843) 878-0390
ATTORNEYS FOR TOWN OF MCBEE

[VERIFICATION FOLLOWING]

VERIFICATION

John Campolong, Jr., first being duly sworn, deposes and says that he is the Mayor of the Town of McBee and as such he is authorized to make this oath;

That he has read the foregoing Complaint that it is true to his own knowledge, except as to those matters alleged therein upon information and belief, and as to those matters, he believes them to be true.

Sworn to and subscribed before me this 16th day of June, 2015

Notary Public for South Carolina

My commission expires 02/21/2024.

John Campolong, Jr.
MAYOR, TOWN OF MCBEE

Exhibit 2

THE STATE OF SOUTH CAROLINA **COUNTY OF CHESTERFIELD** Town of McBee, Plaintiff, versus Alligator Rural Water & Sewer Company, Inc., Alligator Rural Water Company, Inc., Defendants.	**IN THE COURT OF COMMON PLEAS** **FOURTH JUDICIAL CIRCUIT** **2015-CP-13-379** **ANSWER AND COUNTERCLAIM** **(JURY TRIAL DEMANDED)**

True Copy Attest
Faye L. Stillens
CLERK OF COURT C.P. & G.
CHESTERFIELD COUNTY, SC
FAYE L. STILLENS
CLERK OF COURT
CHESTERFIELD
2015 AUG 17 PM 4 3

The Defendants answering the Plaintiff's Complaint would allege and show the following:

FOR A FIRST DEFENSE:

1. That the Defendants deny each and every allegation contained in the Plaintiff's Complaint not hereinafter specifically admitted, explained or qualified and demands strict proof thereof.

2. As to the allegations of Paragraph 1, the Defendants crave reference to the statutes referenced in said paragraph and assert that the statutes speak for themselves. Further answering, to the extent the allegations set forth in this paragraph attempt to establish any liability or violations on the part of the defendants or claim any rights or protections on the part of the plaintiff, the allegations are denied and defendants demand strict proof thereof.

3. That the Defendants admit so much of the allegations of Paragraph 2 of the

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Complaint as allege that McBee is a municipal corporation organized and existing under the laws of the State of South Carolina and would further admit that A.O. Smith Corporation located at 25589 U.S. 1, McBee, Chesterfield County, South Carolina 29101 is currently purchasing water from McBee. The Defendants deny all remaining allegations of said paragraph and demand strict proof thereof.

4. That the Defendants admit so much of the allegations of Paragraph 3 as allege that Alligator Rural Water & Sewer Company, Inc. is a South Carolina corporation and has its principal place of business at 378 W. Pine Avenue, McBee, Chesterfield County, South Carolina, 29101. Further answering said paragraph, Alligator Rural Water Company, Inc. was originally incorporated in 1987 and subsequently changed its name to Alligator Rural Water & Sewer Company, Inc. in 1998.

5. That the Defendants admit the allegations contained in Paragraphs 4 and 5 of the Complaint.

6. That the Defendants deny the allegations contained in Paragraph 6 and demand strict proof thereof. Further answering said Paragraph, the Defendants allege that McBee is a water customer of Alligator who currently supplies all of McBee's water.

7. As to the allegations contained in Paragraphs 7, 8, 9, and 10 of the Complaint, the Defendants lack sufficient information or knowledge upon which to form a belief as to the veracity of those allegations and therefore deny the same demand strict proof thereof.

8. That the Defendants deny the allegations contained in Paragraphs 11 and 12 of the Complaint and demand strict proof thereof.

WOL #2

9. That the Defendants admit so much of the allegations of Paragraph 13 as allege that Alligator claims the right to service the geographical area in which A.O. Smith is situate as this is Alligator's existing service territory. Further answering said paragraph, Defendants allege that A.O. Smith has requested water service from Alligator.

10. That the Defendants deny the allegations contained in Paragraph 14 and demand strict proof thereof.

11. As to the allegations of Paragraph 15, Defendants assets that said allegations attempt to establish a legal conclusion and therefore Defendants deny the same and demand strict proof thereof.

12. As to Paragraph 16 of the Complaint, Defendants reassert and re-allege all allegations and defenses contained herein, as though set forth in full.

13. That the Defendants deny the allegations contained in Paragraphs 17 and 18 of the Complaint and demand strict proof thereof.

14. As to the allegations of Paragraph 19, the Defendants crave reference to the statute referenced therein and assert that the statute speak for itself. Further answering, to the extent the allegations set forth in this paragraph attempt to establish any liability or violations on the part of the defendants or claim any rights or protections on the part of the plaintiff, the allegations are denied and defendants demand strict proof thereof.

15. That the Defendants deny the allegations contained in Paragraphs 20, 21, 22, and 23 of the Complaint and demand strict proof thereof.

16. As to Paragraph 24 of the Complaint, Defendants reassert and re-allege all

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allegations and defenses contained herein, as though set forth in full.

17. That the Defendants admit so much of the allegations of Paragraph 25 as allege that it was created pursuant to S.C. Code Ann. §33-36-210 et seq. but would further allege that it is a corporation not-for-profit financed by federal or state loans.

18. That the Defendants admit the allegations contained in Paragraph 26 of the Complaint.

19. As to the allegations of Paragraph 27 of the Complaint, the Defendants crave reference to the statute referenced therein and assert that the statute speak for itself.

20. That the Defendants deny the allegations contained in Paragraphs 28 and 29 of the Complaint and demand strict proof thereof. Further answering said paragraphs, Defendants allege that A.O. Smith is in Alligator's existing service territory and therefore no notice would be required prior to providing service to said entity.

21. That the Defendants deny the allegations contained in Paragraph 30 and 31 of the Complaint and demand strict proof thereof.

22. As to Paragraph 32 of the Complaint, Defendants reassert and re-allege all allegations and defenses contained herein, as though set forth in full.

23. That the Defendants deny the allegations contained in Paragraphs 33, 34, 35, 36, and 37 of the Complaint and demand strict proof thereof.

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FOR A SECOND DEFENSE AND BY WAY OF AFFIRMATIVE DEFENSE

(Failure to state a claim upon which relief can be granted)

24. The Defendants reaffirm and reiterate all of the paragraphs contained in this Answer and Counterclaim herein as fully as if repeated verbatim.

25. On information and belief, the Complaint fails to state a claim upon which relief can be granted as to the defendants.

FOR A THIRD DEFENSE AND BY WAY OF AFFIRMATIVE DEFENSE
(Failure to Join an Indispensable Party)

26. The Defendants reaffirm and reiterate all of the paragraphs contained in this Answer and Counterclaim herein as fully as if repeated verbatim.

27. A.O. Smith's manufacturing facility is located at 25589 U.S. 1, McBee, Chesterfield County, South Carolina 29101 which is situate in Alligator's water service territory.

28. A.O. Smith is currently purchasing water from McBee, but has no written contract and now desires to purchase water from Alligator.

29. A.O. Smith has requested that Alligator provide its water services.

30. Alligator is indebted to the USDA/RD as evidenced by numerous promissory notes, real estate mortgages and security agreements.

31. Defendants are informed and believe that by accepting loans from Rural Development, Defendants are required to provide adequate service to customers within its service area.

32. Alligator is capable of providing adequate water service to A.O. Smith, who is a

WOS #5

customer within Alligator's service area.

33. A.O. Smith is an indispensible party to this action in that A.O. Smith claims an interest relating to the subject of the action and is so situated that the disposition of the action in its absence may, as a practical matter, impair or impede its ability to protect that interest or leave the present Defendants subject to a substantial risk of incurring inconsistent obligations by reason of A.O. Smith's claimed interest.

FOR A FOURTH DEFENSE AND BY WAY OF A FIRST COUNTERCLAIM

34. The Defendants reaffirm and reiterate all of the paragraphs contained in this Answer and Counterclaim herein as fully as if repeated verbatim.

35. Alligator is a corporation not-for-profit organized and existing under the laws of the State of South Carolina with its principal office in the County of Chesterfield, State of South Carolina. Alligator provides water service in its geographical service area which includes all of the rural McBee area in Chesterfield County and outside of the McBee city limits.

36. McBee is a municipal corporation organized and existing under the laws of the State of South Carolina.

37. That S.C. Code Ann. §5-31-1910 authorizes a town to furnish water and electric current beyond corporate limits.

38. That S.C. Code Ann. §5-31-1910 provides:

> Any city or town in this State owning a water or light plant may through the proper officials of such city or town, enter into a contract with any person without the corporate limits of such city or town but contiguous thereto to furnish such person electric current or water from such water or light plant of such city or town and may furnish such water or light upon such terms, rates and charges as may be fixed by the contract or agreement between the parties in this behalf, either for lighting or for manufacturing purposes, when in the judgment of the city or town council it is for the best interest of the municipality so to do. No such contract

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shall be for a longer period than two years but any such contract may be renewed from time to time for a like period.

39. The manufacturing facility owned and operated by A.O. Smith Corporation (A.O. Smith) located at 25589 U.S. 1, McBee, Chesterfield, South Carolina is outside the corporate limits of McBee and is noncontiguous thereto. A.O. Smith is situate in Alligator's water service territory.

40. Defendants are informed and believe that McBee is currently providing water services to A.O. Smith without a written contract.

41. McBee is serving A.O. Smith, which is not contiguous to the corporate limits of McBee and is in Alligator's water service territory, in violation of South Carolina law.

42. A.O. Smith has expressed its interest in purchasing water from Alligator.

43. Alligator is capable of providing the services desired by A.O. Smith.

44. Alligator is entitled to declaratory judgment in this matter. There exists a dispute and actual controversy between the parties that cannot be resolved absent declaratory relief by this court. Alligator is entitled to a declaratory judgment, declaring that rights and legal relations of the parties as follows:

(a) That A.O. Smith is situate in Alligator's water service territory;

(b) That Alligator has the paramount and exclusive right to provide water service to A.O. Smith; and

(c) That the actions of McBee in providing water service to a customer not contiguous to the corporate limits of the town and in the absence of a contract is in violation of S.C. Code Ann. §5-31-1910.

WOL #7

FOR A FIFTH DEFENSE AND BY WAY OF A SECOND COUNTERCLAIM

45. The Defendants reaffirm and reiterate all of the paragraphs contained in this Answer and Counterclaim herein as fully as if repeated verbatim.

46. Alligator is an obligor to the United States of America, Department of Agriculture, Rural Development (referred to as "RD"), on certain indebtedness made pursuant to and authorized by the Consolidated Farm and Rural Development Act of 1961, 7 U.S.C.A. §1921 et seq.

47. Alligator is currently indebted to RD in the approximate amount of $23,000,000.00, as evidenced by numerous promissory notes, real estate mortgages and security agreements. This indebtedness remains in full force and effect.

48. Alligator provides water services in the service territory described in its original Articles of Incorporation filed with the South Carolina Secretary of State in 1987 and all amendments thereto that have been subsequently filed.

49. McBee is presently providing water to A.O. Smith which is within the existing service area of Alligator.

50. McBee's actions are in violation of 7 U.S.C.A. §1926(b).

51. Alligator is informed and believes that it is protected by 7 U.S.C.A. §1926(b) which protects rural water associations, such as Alligator, which have received loans from the United States government by providing that the service provided or made available through any such association shall not be curtailed or limited by inclusion of the area served by such association within the boundaries of any municipal corporation or other public body, or by the granting of any private franchise for similar service within such area during the term of such loan; nor shall the

WOB #8

happening of such event be the basis of requiring such association to secure the franchise, license, or permit as a condition to continuing to serve the area by the association at the time of the occurrence of such event.

52. Accordingly, Alligator is entitled to the rights, privileges, and protections granted by 7 U.S.C.A. §1926(b).

53. McBee's actions of continuing to sell water to A.O. Smith has curtailed and limited the service and supply of water of Alligator in its existing territory which makes it more difficult for Alligator to repay its loans to RD in violation of 7 U.S.C.A. §1926(b).

54. Alligator is entitled to declaratory judgment pursuant to 28 U.S.C.A. §§ 2201 and 2202. There exists a dispute and actual controversy between the parties that cannot be resolved absent declaratory relief by this Court. Alligator is entitled to a declaratory judgment, declaring the rights and legal relations of the parties as follows:

(a) That Alligator is a rural water association and currently indebted to RD and therefore entitled to the rights, privileges, and protections granted under 7 U.S.C.A. §1926(b) during the term of the RD indebtedness.

(b) That A.O. Smith is contained within Alligator's water service territory; and

(c) That McBee's continued water service to A.O Smith will unlawfully curtail or limit Alligator's service in violation of 7 U.S.C.A. §1926(b).

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BY WAY OF A THIRD COUNTERCLAIM

55. The Defendants reaffirm and reiterate all of the paragraphs contained in this Answer and Counterclaim herein as fully as if repeated verbatim.

56. The Defendant, Alligator Rural Water & Sewer Company, Inc. is a corporation not-for-profit organized and existing under the laws of the State of South Carolina with its principal office in the County of Chesterfield, State of South Carolina.

57. The Plaintiff, Town of McBee, is a municipal corporation and political subdivision of the State of South Carolina and therefore a governmental entity located within the County of Chesterfield, State of South Carolina.

58. On December 28, 1999, Plaintiff and Defendant entered into a Water Purchase Agreement, hereinafter referred to as "Agreement", a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

59. Pursuant to the Agreement, the Defendant would provide Plaintiff with water at the rate of $0.95 per thousand gallons.

60. Pursuant to the Agreement, the schedule of rates paid by Plaintiff, as Purchaser, is subject to review and modification each year on or about the first day of May, 2001. Modifications of rates, if adopted by Defendant, as Seller, will be based on actual increases in costs of production, not including capital expeditures (sic) and/or improvements, presented to Purchaser for its review at least thirty (30) days prior to the effective date of any increase. Copies of rate calculation, and pertinent record substantiating same, will be available to Purchaser for inspection during the review period. (NOTE: A copy of Seller's audit report for the preceding year, upon which any modification

WOG #10

may be made, will be available to Purchaser upon request to Seller.)

61. An actual controversy has arisen and now exists between plaintiff and defendant regarding their respective rights and duties under the contract.

62. Plaintiff is currently only paying $1.25 per 1000 gallons of water. This rate increase became effective on July 1, 2003.

63. Since July 2003, Defendant has increased rates, as contemplated by the Agreement, and in accordance with said Agreement, four additional times and notified Plaintiff of the same, the first of such increases to be effective in 2006. The plaintiff has willfully refused to pay the defendant's current rates and has been paying only $1.25 per 1000 gallons for the past twelve years.

64. In accordance with the said Agreement, Defendant last notified Plaintiff of a rate increase by letter dated April 25, 2013. The new rate in the amount of $1.92 per 1000 gallons went into effect on June 1, 2013.

65. Defendants are informed and believe that because of Defendant's rate increase, McBee raised the water rates of its customers by Ordinance effective October 16, 2013. According to the Ordinance, a water rate increase was necessary because "the waterworks system has experienced a rate increase of 54% per 1,000 gallons of purchased water".

66. Even though McBee increased the rates of its customers, McBee has continued to pay Defendants only $1.25 per 1,000 gallons of purchased water.

67. Plaintiff has failed to pay in full the invoices and statements for water and other services supplied since June 2013 and Plaintiff currently owes the Defendant the principal amount of $125,576.76. That each month this amount will continue to increase as Plaintiff refuses to pay

WDS
#11

the monthly invoices in full.

68. The Defendant has demanded payment from the Plaintiff for the water and other services and the Plaintiff has failed and refused to make such payment.

69. McBee has breached the terms of the agreement by its failure to pay in full the invoices and statements for water and other services supplied since June 2013 and Alligator is entitled to judgment in the amount currently owing from McBee in the amount of $125,576.76 together with all additional amounts continuing to accrue with each monthly billing hereafter, with interest thereon.

BY WAY OF A FOURTH COUNTERCLAIM

70. The Defendants reaffirm and reiterate all of the paragraphs contained in this Answer and Counterclaim herein as fully as if repeated verbatim.

71. Defendants are informed and believe that for an extended period of time prior to 1999, Plaintiff had continued DHEC compliance issues regarding its water system and requested assistance from Alligator in operating its system.

72. In 1999, in an effort to provide the citizens of McBee with safe drinking water, and to protect Plaintiff from severe DHEC penalties, Alligator agreed to begin operating Plaintiff's water system and selling water to McBee.

73. In order to provide these services to McBee, it was necessary for Alligator to borrow significant sums of money from the United States of America, Department of Agriculture, Rural Development (hereafter "RD") to provide the water that McBee needed each month to meet the

WOSL
RD

needs of its existing customers.

74. In order to secure the loan, RD required McBee and Alligator to enter into a Water Purchase Agreement, a copy of which is attached hereto as Exhibit "A". This Water Purchase Agreement is pledged as security for all of Alligator's RD loans since 1999.

75. Since 1999 McBee has not had a DHEC permit to operate its water system and has purchased all of its water from Alligator pursuant to the above referenced agreement.

76. McBee is Alligator's second largest water customer and is a significant source of Alligator's revenue each month.

77. Alligator has learned that McBee intends to begin operating its own system and stop purchasing water from Alligator all together.

78. Alligator is providing water service within the corporate limits of the Town of McBee and to all McBee customers outside of the corporate limits pursuant to the said water purchase agreement.

79. McBee has manifested its intent to limit Alligator's service and supply of water in areas already served by Alligator in violation of 7 U.S.C.A. §1926(b). This section prohibits municipal corporations or other public bodies from curtailing or limiting water service provided by or made available by any rural water association indebted to RD (formerly the Rural Economic and Community Development Service and formerly Farmers Home Administration, during the term of such indebtedness.

80. McBee's actions and intended and proposed actions to operate its own system and stop purchasing water from Alligator will curtail or limit the service and supply of water to

WOSL
#13

customers and areas served by Alligator and make it impossible for Alligator to repay its loans to RD in violation of 7 U.S.C.A. §1926(b).

81. Alligator is entitled to declaratory judgment pursuant to 28 U.S.C.A. §§ 2201 and 2202. There exists a dispute and actual controversy between the parties that cannot be resolved absent declaratory relief by this Court. Alligator is entitled to a declaratory judgment, declaring the rights and legal relations of the parties as follows:

(a) That Alligator is a rural water association and currently indebted to RD and therefore entitled to the rights, privileges, and protections granted under 7 U.S.C.A. §1926(b) during the term of the RD indebtedness.

(b) That Alligator is providing water service within the corporate limits of the Town of McBee and to all McBee customers outside of the corporate limits pursuant to the said water purchase agreement; and

(c) That McBee's actions and all those acting in concert with McBee in attempting to obtain a DHEC permit and operate its water system so as to discontinue purchasing water from Alligator at its current usage pursuant to the Water Purchase Agreement attached hereto, will unlawfully curtail or limit Alligator's service in violation of 7 U.S.C.A. §1926(b).

BY WAY OF A FIFTH COUNTERCLAIM

82. The Defendants reaffirm and reiterate all of the paragraphs contained in this Answer and Counterclaim herein as fully as if repeated verbatim.

83. Alligator has demonstrated a strong likelihood of success on the merits in this case.

84. Should McBee continue its unlawful actions in violation of 7 U.S.C.A. §1926(b),

WOS #14

Alligator will suffer irreparable harm through the loss of a significant water customer.

85. Alligator has no adequate remedy at law.

86. The issuance of a preliminary and permanent injunction will not cause substantial harm to McBee or those acting in concert with McBee.

87. Alligator is entitled to preliminary and permanent injunctive relief as follows:

(a) Enjoining McBee, and all those in active concert with McBee, from taking any further actions which would enable the Town to stop purchasing water from Alligator pursuant to the Water Purchase Agreement, in violation of 7 U.S.C.A. §1926(b); and

(b) Enjoining McBee, and all those in active concert with McBee, from taking any further action that will serve to curtail or limit water service provided by Alligator in violation of 7 U.S.C.A. §1926(b); and

(c) Enjoining McBee, and all those in active concert with McBee, from taking any further actions in violation of the declaratory judgments granted in this action.

88. That Defendants make demand for a trial by jury on all triable issues of fact contained in the pleadings.

WHEREFORE, having fully answered the Complaint herein, the Defendants pray:

1. That the Complaint be dismissed;
2. That the Defendants have judgment against the Plaintiff on its counterclaims;
3. For a jury trial on all triable issues of fact contained in the pleadings;

WOD #15

4. An award to Alligator of its costs and reasonable attorney's fees; and

5. Granting Alligator such other and further relief as this Court may deem just and proper.

SPENCER LAW FIRM

William O. Spencer, Jr.
Attorney for the Defendants
P. O. Box 190 – 301 West Main Street
Chesterfield, S.C. 29709
(843) 623-2144

Chesterfield, South Carolina.
August 17, 2015.

#16

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHESTERFIELD)

VERIFICATION

Personally appeared before me Robert E. Blackwell, first being duly sworn, deposes and says that he is the President of Alligator Rural Water & Sewer Company, Inc., and as such he is authorized to make this oath.

That he has read the foregoing Answer and Counterclaim that it is true to his own knowledge, except as to those matters alleged on information and belief, and as to those matters, he believes them to be true.

Robert E. Blackwell

Robert E. Blackwell

SWORN to before me this
17 day of August, 2015.

Dale Odom Stonderman
Notary Public for South Carolina
My Commission Expires: March 6, 2023

2015 AUG 17 PM 4 19

FAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD COUNTY, S.C.

A True Copy Attest
Faye L. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

Exhibit "A"

STATE OF SOUTH CAROLINA)
) WATER PURCHASE AGREEMENT
COUNTY OF CHESTERFIELD)

THIS AGREEMENT FOR SALE AND PURCHASE OF POTABLE WATER, made and entered into this 28th day of Dec., 1999, by and between ALLIGATOR RURAL WATER AND SEWER COMPANY, INC., hereinafter referred to as SELLER, and THE TOWN OF MCBEE, hereinafter known as PURCHASER; made in four parts, all of which will be treated as an original;

(WITNESSETH)

WHEREAS, the SELLER is a corporation duly organized, pursuant to the laws of South Carolina and owns and operates a potable water supply production and distribution system with a capacity currently capable of serving its customers within its system with a remaining excess capacity available for sale, according to the records of both parties hereto and providing a basis for this Agreement; and

WHEREAS, the Board of Directors, governing body of SELLER, by Resolution approved on the 28th day of December, 1999, did adopt and approve the sale of water to PURCHASER, subject to the conditions and stipulations set forth herein, and which authorized the President and the Secretary-Treasurer, to execute this Agreement on behalf of SELLER; and

WHEREAS, the purchase of water from SELLER was approved by the Mayor and Town Council of the Town OF MCBEE on the 28th day of December, 1999, subject to the terms, conditions and stipulations enumerated herein,

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained:

ARTICLE 1. THE SELLER HEREBY AGREES:

1. Quality and Quantity. To furnish PURCHASER at the point of delivery, during the term of this Agreement or any renewal or extension thereof, potable treated water meeting applicable purity standards of the South Carolina Department of Health and Environmental Control (SCDHEC) in such quantity as may be required by PURCHASER, subject to the following demands;

   a. A maximum instantaneous demand of 350 gallons per minute.

   b. A maximum daily demand of 500,000 gallons.

2. Point of Delivery and Pressure. (To be determined by engineers representing SELLER and engineers representing PURCHASER)

3. Billing Procedure. SELLER shall furnish PURCHASER an itemized statement of the gallons of water furnished PURCHASER during the preceding month, not later than the first day of each month.

4. Ownership. No laterals, transmission mains, or services shall be constructed by the SELLER downstream from the meter without the prior consent of the PURCHASER. SELLER shall be responsible for the repair and maintenance of all lateral transmission mains and/or lines of the PURCHASER, SELLER shall be responsible for repair and maintenance up to and not exceeding jobs at the value of $5,000.00 with approval of PURCHASER. Anything above

$5,000.00 the PURCHASER has the option to put the work out to bid.

5. Metering Equipment. SELLER agrees to install metering equipment, including all Appurtenances and required devices for properly measuring the quantity of water delivered and to test and calibrate said metering equipment annually. For the purpose of calibration, a meter which registers not more than two percent (2%) above or below the test results shall be accepted as by both parties.

6. Read Meters and deliver readings by 25th. SELLER will read meters owned by PURCHASER and will deliver readings to Town clerk by the 25th of each month.

7. Installing Meters. PURCHASER will install new meters with in 10 working days of notification. $350.00 for in Town, $450.00 for out of Town.

8. SELLER has the option to rehabilitate PURCHASER'S well or wells. SELLER will pay all cost and has the right to use said wells. After 10 years both parties will review and SELLER shall pay PURCHASER negotiated rate for whole sale water in the event usage is equal to or greater than the amount spent on the rehabilitation project.

SELLER will indemnify and hold PURCHASER harmless for any and all activity associated with the use of said well or wells during the term of this agreement to include operation, maintenance and rehabilitation of the said wells by its employees, assigns, agents and contractors. During this period the wells shall be considered the property of the PURCHASER but shall be the responsibility of the SELLER, and SELLER agrees to maintain the wells in such a condition as to keep them in proper working order and in compliance with all South Carolina Department of Health and Environmental Control regulations. Any material and capital improvements done to the wells shall be done at the risk of the SELLER and shall become the property of the PURCHASER. Any and all taxes due on the wells shall be paid by the SELLER during this initial ten (10) year agreement where SELLER will be able to use water produced from the wells.

9. PURCHASER will pay maintenance of elevated tanks (2).

10. Should any disagreement arise under this Agreement each of the parties hereto, its administrator, successors, or assigns agree to arbitrate the contraversy and submit the matter to two disinterested arbitrators, one to be chosen by each of the parties, and in case they disagree, the two chosen shall elect a third disinterested arbitrator, and the decision of the two of the arbitrators shall be final. This Arbitration is non binding.

ARTICLE II THE PURCHASER HEREBY AGREES:

1. Rates and Payment Date. PURCHASER will pay in full for all water purchased, pursuant to this Agreement, not later than the tenth (10th) day of each month at the rate of $0.95 per thousand gallons.

ARTICLE III. BOTH PARTIES MUTUALLY AGREE:

1. Term of Agreement. This agreement will extend for a period of forty (40) years from the date herein set forth in the initial paragraph.

2. Connect Fee. It is mutually agreed that SELLER will not require of PURCHASER a fee for connection to supply system of SELLER.

3. If any meter fails to register for any period, the amount of water furnished during that period will be deemed to be the amount delivered in the corresponding period immediately prior to the failure, unless otherwise agreed between SELLER and PURCHASER.

4. The metering equipment will be read on or about, the twenty-fifth (25th) day of each month and appropriate officials of PURCHASER and SELLER will have access to the meters at all reasonable times, for the purpose of verification.

5. Water for Testing. PURCHASER agrees to coordinate testing procedure requirements with SELLER so as not to cause difficulty in meeting PURCHASER'S demands.

6. Failure to Deliver. SELLER will operate and maintain its system at all times in an efficient manner and will take such action as may be necessary to furnish PURCHASER with the quantities of water as set forth in this Agreement. Temporary or partial failure to deliver water will be remedied as soon as possible.

Emergency failures of pressure of supply due to main supply breaks, power failure, flood, fire and use of water for fire fighting, earthquakes or other catastrophes, will excuse SELLER from performance for such reasonable period of time as may be necessary to restore service.

In the event of an extended shortage of water, or should the supply of water available to SELLER be diminished for an extended period of time, the supply of water to customers of PURCHASER will be reduced or diminished, in the same ratio or proportion as the supply to the customers of SELLER.

7. Modification of Agreement. The provisions of this Agreement, as they pertain to the schedule of rates paid by PURCHASER, will be subject to review and modifications each year on or about the first day of May, 2001. Modifications of rates, if adopted by SELLER, will be based on actual increases in costs of production, not including capital expenditures and/or improvements, presented to PURCHASER for its review at least thirty (30) days prior to the effective date of any increase. Copies of rate calculations, and pertinent record substantiating same, will be available to PURCHASER for inspection during the review period.

(NOTE: A copy of SELLER'S audit report for the preceding year, upon which any modifications may be made, will be made available to PURCHASER upon request to SELLER.)

8. Successor to PURCHASER and SELLER. In the event any occurrence renders PURCHASER incapable of performing its responsibilities required by this Agreement, its successor, whether the result of legal process, assignment or otherwise, will succeed to the rights and obligation of PURCHASER.

In the event any occurrence renders SELLER incapable of performing its responsibilities required by this Agreement, its successor, whether the result of legal process, assignment or otherwise, will succeed to the rights and obligation of SELLER.

9. Pledge to United States of America. This Agreement is pledged to the United States of America, acting through the United States Department of Agriculture as part of security for a

loan to the Purchaser and Seller from USDA, Rural Development.

IN WITNESS WHEREOF, the parties hereto, by authority duly given, have caused this Agreement to be duly executed in four counterparts as hereinabove set forth in the initial paragraph.

ATTEST:

Cornelia L Carr

ALLIGATOR RURAL WATER AND SEWER CO., INC.

by Harvey L. Griggs
President

Cornelia L Carr
Secretary/Treasurer

TOWN OF MCBEE

by
Mayor

COUNCIL MEMBERS

Alan D McLeod

George Sellers

William B. Edwards

APPROVAL:

USDA, RURAL DEVELOPMENT

ACCEPTED AS MEETING
RURAL DEVELOPMENT
ADMINISTRATIVE REQUIREMENTS

BY: Mike Hinds

TITLE: RBS/RUS Program Director

DATE: 6/29/00

STATE OF SOUTH CAROLINA COUNTY OF CHESTERFIELD Town of McBee Plaintiff, vs. Alligator Rurual Water & Company, Inc. Alligator Rural Water Company, Inc. Defendant.	)	IN THE COURT OF COMMON PLEAS FOURTH JUDICIAL CIRCUIT CASE NO.: 2015-CP-13-0379 **MOTION AND ORDER INFORMATION FORM AND COVERSHEET**

Plaintiff's Attorney:	Defendant's Attorney:
Richard E. McLawhorn, Jr., Bar No. 100179 Address: Sweeny Wingate & Barrow, P.A. 115 Cargill Way, Ste. B Hartsville, SC 29550 Phone: 843-878-0390Fax 843-878-0393 E-mail: rem@swblaw.comOther:	William O. Spencer, Jr., Bar No. _____ Address: Spencer Law Firm P.O. Box 190 Chesterfield, SC 29709 Phone: 843-623-2144 Fax E-mail: spencerlaw@shtc.cnetOther:

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☒ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: _____
Estimated Time Needed: _____ Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Marguerite S. Willis Movant 2/2/2016
Signature of Attorney for ☐ Plaintiff / ☒ ~~Defendant~~ Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT: $_____
☐ EXEMPT: (check reason)
☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
☐ Other: _____

FAYE L. [illegible] CLERK OF COURT C.P. & G.S. CHESTERFIELD COUNTY, SC 2016 FEB 2 AM 11:07

A True Copy, Attest

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:	JUDGE CODE _____ Date: _____

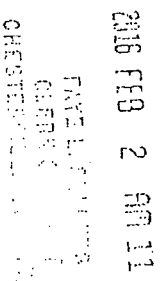
CLERK'S VERIFICATION

Collected by DF Date Filed: 2-2-16
☒ MOTION FEE COLLECTED: $ 25.00
☐ CONTESTED – AMOUNT DUE: $ _____

FEE PAID

Exhibit 3

STATE OF SOUTH CAROLINA COUNTY OF CHESTERFIELD	IN THE COURT OF COMMON PLEAS FOURTH JUDICIA CIRCUIT
Town of McBee, Plaintiff, vs. Alligator Rural Water & Sewer Company, Inc., Alligator Rural Water Company, Inc., Defendants.	Case No 2015-CP-13-379 **A.O. SMITH CORPORATION'S NOTICE OF MOTION AND MOTION TO INTERVENE**



TO: PLAINTIFF, TOWN OF MCBEE AND ITS ATTORNEYS MARTIN S. DRIGGERS, JR., ESQUIRE; RICHARD E. MCLAWHORN, JR., ESQUIRE; AND BELTON T. ZEIGLER, ESQUIRE; and DEFENDANTS ALLIGATOR RURAL WATER & SEWER COMPANY, INC. AND ALLIGATOR RURAL WATER COMPANY, INC., AND THEIR ATTORNEY WILLIAM O. SPENCER, JR., ESQUIRE:

YOU WILL PLEASE take notice that A.O. Smith Corporation ("A.O. Smith"), pursuant to Rule 24(a), SCRCP, respectfully moves this Court for an Order permitting A.O. Smith to intervene in this proceeding as a matter of right, inasmuch as it has a paramount interest in the water supply at issue in this litigation and the disposition of this matter may, as a practical matter, impair its ability to protect that interest.

In the alternative, A.O. Smith, pursuant to Rule 24(b), SCRCP, respectfully moves this Court for an Order allowing its permissive intervention in this proceeding, inasmuch as its claims have questions of law and fact in common with the main action. Given the status of this proceeding, the intervention of A.O. Smith will not unduly delay or prejudice the adjudication of the rights of the original parties.

A True Copy, Attest
Joyce L. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

The grounds for this Motion are more fully detailed in A.O. Smith's Memorandum of Law in Support of Motion to Intervene, filed simultaneously herewith.

The undersigned hereby certifies and affirms, in accordance with Rule 11 of the South Carolina Rules of Civil Procedure, that she has consulted with counsel for the parties regarding the subject matter of this Motion. Counsel for Defendants consent to this Motion; counsel for the Plaintiff were unwilling to consent.

Marguerite S. Willis
Joan W. Hartley
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
Post Office Box 2426
Columbia, SC 29202
803.771.8900

Attorneys for A.O. Smith Corporation

February 2, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF CHESTERFIELD	IN THE COURT OF COMMON PLEAS FOURTH JUDICIA CIRCUIT
Town of McBee, Plaintiff, vs. Alligator Rural Water & Sewer Company, Inc., Alligator Rural Water Company, Inc., Defendants.	Case No 2015-CP-13-379 **A. O. SMITH CORPORATION'S MEMORANDUM OF LAW IN SUPPORT OF MOTION TO INTERVENE**

2016 FEB 2 AM 11 27

FAYE L. SELLERS
CLERK OF COURT
CHESTERFIELD, SC

A. O. Smith Corporation ("A.O. Smith" or "Proposed Intervenor") respectfully submits this memorandum of law in support of its Motion to Intervene, filed simultaneously herewith. A.O. Smith is caught in a high stakes "tug of war" between the Town of McBee ("Town") and Defendant Alligator Rural Water & Sewer Company, Inc. ("Alligator"), both of whom claim the exclusive right to provide water service to A.O. Smith's Chesterfield County facility. A.O. Smith moves to intervene in this proceeding, as the ultimate determination will directly impact A.O. Smith's ability to obtain water service that is adequate and reliable for the efficient and safe operation of its Chesterfield County facility, as well as sufficient to support future expansions of those operations.

FACTUAL BACKGROUND

A.O. Smith owns and operates a facility (the "Chesterfield County facility") in an unincorporated area of Chesterfield County, South Carolina, where it manufactures water heaters and boilers. The facility also includes an engineering division which designs and tests company

A True Copy, Attest
Faye L. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

products. The Chesterfield County facility has been in operation since 1980 and currently employs more than 500 persons.

A.O. Smith has critical needs for an adequate, dependable water supply for its facility, including water for its manufacturing and testing operations, fire protection, and domestic uses. The facility currently operates five days per week with two shifts of eight hours each. During operating hours, the facility's manufacturing, testing, and domestic water requirements are 161 gallons per minute ("gpm") on an average day and 239 gpm on a peak use day. Additionally, A.O. Smith's fire protection system requires an additional minimum instantaneous flow for not less than two hours.

In 1979, A.O. Smith entered a 30 year "non-annexation agreement" with the Town, under which the Town agreed to supply A.O. Smith with water. That agreement ended in 2009. Although A.O. Smith has continued to buy water services from the Town, A.O. Smith is not located within the corporate limits of, or contiguous to, the Town and there is no contract between them for water service. *See* S.C. CODE ANN. § 5-31-1910. Accordingly, A.O. Smith is simply an "at-will" customer of the Town.

Alligator operates a public water supply and distribution system throughout a large area of Chesterfield County, including the area where the A.O. Smith facility is located. In 1999, the Town entered a 40 year water supply agreement with Alligator ("1999 Agreement").[1] Since that time, and until today, Alligator has been the sole source of the Town's water supply. In other words, although A.O. Smith pays the Town, the water used at the Chesterfield County facility has come from Alligator since 1999.

[1] The Town knew that Alligator was pledging the 1999 Agreement as security for a United States Department of Agriculture, Rural Development ("RD") loan to Alligator, arguably making the Town a customer of Alligator for purposes of the RD loan, and thus, with Alligator's service area under 7 U.S.C. § 1926(b).

Currently, the Town's public water supply distribution system ("Town System") is generally comprised of two (2) elevated tanks, a wholesale connection to the Alligator system ("Alligator System"), and water distribution lines of differing sizes. The Town's water lines are primarily small in diameter, with a larger 12-inch line extending along U.S. Highway 1 between the A.O. Smith facility and the town limits near the intersection of US Highway 1 and Juniper Avenue. One of the two elevated tanks is located in the Town near the intersection of US Highway 1 and Juniper Avenue and has a capacity of 75,000 gallons. The other is located adjacent to the A.O. Smith facility and has a capacity of 250,000 gallons. The two tanks are connected by the 12-inch water main described above.

In comparison to the Town's total water storage capacity of 325,000 gallons, the Alligator system has 3,500,000 gallons of storage capacity within two miles of the A.O. Smith facility. Additionally, Alligator has a 24-inch water line which runs along U.S. Highway No. 1 adjacent to the facility.

In 2011, A.O. Smith advised the Town that the Chesterfield County facility would require an instantaneous demand of 2,000 gpm at a minimum of 98 psi for its fire protection system and an additional 500 gpm for a proposed expansion. When the Town failed to address A.O. Smith's concerns, the company entered into discussions with Alligator. Alligator advised A.O. Smith that it had 8,000,000 gallon per day in excess capacity and could provide up to 4,000 gpm to the Chesterfield County facility and sustain that flow on a continuous basis.

By letter dated October 10, 2013, the Town advised A.O. Smith that it intended to place its two existing water supply wells back into operation. The Town's wells had been closed in the early 2000s when contaminants were detected in the wells. The Town further advised A.O. Smith that these two wells would meet all of the water source requirements for the Town

System, including service to and for the Chesterfield County facility. As a reseller of Alligator's water, the Town's water service responsibilities are essentially ministerial in nature.

Upon information and belief, the two water wells will not be sufficient to meet A.O. Smith's demands, including its instantaneous fire flow demands for its Chesterfield County facility. A.O. Smith also has reason to believe that the capacity of these Town wells does not meet the redundancy requirements of Section 61-58.2(B)(1) of the State Primary Drinking Water Regulation. S.C. REG. ANN. § 61-58.2(B)(1). The Town is thus incapable of meeting its regulatory obligations without Alligator's water supply, leaving A.O. Smith's Chesterfield facility at the mercy of an often-contentious relationship between the Town and Alligator that has been frequently marred by lawsuits, including the present one before the Court.

In recent months, the Town's service to A.O. Smith has been interrupted and inadequate to meet its water needs on certain occasions. For example, on June 19, 2015, A.O. Smith lost water pressure at the Chesterfield County plant to the point that all non-essential water uses were curtailed. Moreover, the Town has failed to maintain storage capacity needed to ensure adequate pressure for A.O. Smith's fire protection system on several occasions, and has failed to advise A.O. Smith so that it could take appropriate fire protection steps and alert its fire insurance carrier.

In addition to issues relating to adequacy and reliability of water supply from the Town, A.O. Smith has reason to believe that the Town may be overbilling its customers, including A.O. including A.O. Smith, for its water. From time to time, since 1999, Alligator has implemented implemented increases in its wholesale water rate. In October, 2013, Alligator increased the rate the rate to $1.92/thousand gallons. Thereafter, the Town increased the water rate charged to its to its customers, assertedly based on this increase by Alligator. However, upon information and

information and belief, the Town has continued to pay Alligator at a rate of $1.25/thousand $1.25/thousand gallons. Based on A.O. Smith's water use through August 2015, the difference difference between pre-2013 rate and increase rate charged to Town's commercial customers has customers has resulted in overbilling to A.O. Smith of more than $60,000.

A.O. Smith requires reliable, adequate water service to operate its Chesterfield County facility and to meet its fire protection needs. The Town has been unable to provide that service on a consistent basis, and A.O. Smith is entitled to terminate the water service currently provided by the Town and obtain those services from Alligator. Accordingly, in 2015, Alligator began construction of approximately 925 linear feet of 12-inch water line to connect its 24-inch line to the A.O. Smith facility water system.

Shortly thereafter, the Town filed this lawsuit, claiming the legal and exclusive right to provide water service to A.O. Smith under federal law. Alligator countersued, also claiming the legal right to the Town of McBee and, in turn A.O. Smith, as a customer under federal law. For the present, both parties have agreed to maintain the status quo. The status quo, however, means that A.O. Smith is unable to connect directly to the Alligator system, contrary to its legitimate business needs.

ARGUMENT AND CITATION OF AUTHORITY

Rule 24 of the South Carolina Rules of Civil Procedure provides for intervention as a matter of right under subsection (a) and permissive intervention under subsection (b). S.C. R. Civ. P. 24(a) and (b). "Intervention is a procedural device whereby a third party who is not a named party in an existing lawsuit, but who has an interest in its outcome, may become a party to the action." *In re Horry County State Bank*, 361 S.C. 503, 507, 604 S.E.2d 723, 725 (Ct. App.

2004) (citing BLACK'S LAW DICTIONARY 826 (7th ed.1999)). Rule 24(a) provides for intervention as of right and states that a party has a right to intervene:

> (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

S.C. R. Civ. P. 24(a). In order to intervene pursuant to Rule 24(a)(2), a party must: "1) establish timely application; 2) assert an interest relating to the property or transaction which is the subject of the action; 3) demonstrate that it is in a position such that without intervention, disposition of the action may impair or impede its ability to protect that interest; and 4) demonstrate that its interest is inadequately represented by other parties." *Ex parte Reichlyn*, 310 S.C. 495, 498, 427 S.E.2d 661, 663 (1993) (citation omitted). The South Carolina Supreme Court has held that the standard for intervention by right under Rule 24(a)(2) should be interpreted "to permit liberal intervention particularly where as here, judicial economy will be promoted by the declaration of the rights of all parties who may be affected." *Berkeley Elec. Coop., Inc. v. Town of Mt. Pleasant*, 302 S.C. 186, 189, 394 S.E.2d 712, 713 (1990). Alternatively, Rule 24(b) provides for permissive intervention and provides in relevant part that a party may intervene : "(1) when a statute confers a conditional right to intervene; or (2) when an applicant's claim or defense and the main action have a question of law or fact in common." S.C. R. Civ. P. 24(b). "To warrant intervention under Rule 24(b) an applicant should ordinarily show he is charged with a public duty requiring him to intervene, or he has a claim or defense involving a question of law or fact in common with the main action. A mere general interest in the subject matter of the litigation is not sufficient." *South Carolina Tax Comm'n v. Union Cnty. Treasurer*, 295 S.C. 257, 262, 368 S.E.2d 72, 75 (Ct. App. 1988) (citing 3B J. Moore, MOORE'S FEDERAL PRACTICE SECTION

24.10[2] (2d ed. 1987). As discussed more fully below, A.O. Smith has a right to intervene under Rule 24(a) and also satisfies the requirements for permissive intervention under Rule 24(b).

I. A.O. SMITH SATISFIES THE FOUR-PRONG TEST FOR INTERVENTION BY RIGHT UNDER RULE 24(A)(2).

A.O. Smith must have reliable water service which is adequate to meet its needs for operations, fire protection, and domestic uses at the Chesterfield County facility. The Town and Alligator both claim that A.O. Smith is in its service area and therefore protected from curtailment under 7 U.S.C. § 1926(b). As such, the Court will be required to decide which water utility will serve A.O. Smith. As discussed above, the Town System is inadequate to meet A.O. Smith's water needs and therefore a ruling in favor of the Town would substantially impair A.O. Smith's current and future operations. Therefore, A.O. Smith unquestionably has an interest in the outcome of this litigation. [2] "A party moving to intervene under Rule 24(a)(2), SCRCP, must: 1) establish timely application; 2) assert an interest relating to the property or transaction which is the subject of the action; 3) demonstrate that it is in a position such that without intervention, disposition of the action may impair or impede its ability to protect that interest; and 4) demonstrate that its interest is inadequately represented by other parties." *Ex parte Reichlyn*, 310 S.C. 495, 498, 427 S.E.2d 661, 663 (1993) (citation omitted). A.O. Smith satisfies the requirements of this test and is, therefore, entitled to intervention as matter of right under Rule 24(a)(2).

A. A.O. Smith's motion to intervene is timely.

A.O. Smith moves to intervene during the pleading stage of this litigation, and therefore, its motion is timely. The Supreme Court of South Carolina has held that the following factors

[2] Alligator alleges that A.O. Smith is an indispensable party to this action. (Answer and Counterclaim, ¶¶ 26-33).

must be considered in determining the timeliness of a motion to intervene: "1) the time that has passed since the applicant knew or should have known of his or her interest in the suit; 2) the reason for the delay; 3) the stage to which the litigation has progressed; and 4) the prejudice the original parties would suffer from granting intervention and the applicant would suffer from denying intervention." *Davis v. Jennings*, 304 S.C. 502, 504, 405 S.E.2d 601, 603 (1991). As to the first three factors, there has been no undue delay in A.O. Smith's filing to intervene in this action. The Town filed its summons and complaint in this action on June 17, 2015. On August 17, 2015, the defendants filed their answer and counterclaim. Thereafter, the Town filed its answer to the defendants' counterclaim. As such, this action has barely progressed beyond the pleading stage.

With respect to the fourth factor, A.O. Smith's intervention would not in any manner prejudice the original parties since the action is in this preliminary stage. In contrast, A.O. Smith would unquestionably be prejudiced if intervention is denied since this action will determine which of the original parties will have the exclusive right to provide water service to A.O. Smith. Moreover, the South Carolina Supreme Court has held that "[i]t is necessary to ask *why* a would be intervenor seeks to participate, for if the desired intervention relates to an ancillary issue and will not disrupt the resolution of the underlying merits, untimely intervention is much less likely to prejudice the parties." *Davis v. Jennings*, 304 at 505, 405 S.E.2d at 603 (quoting *Public Citizen v. Liggett Group, Inc.*, 858 F.2d 775, 786 (1st Cir. 1988)). Accordingly, even if A.O. Smith's motion to intervene were untimely, which it is not, A.O. Smith's interest in the outcome of this litigation is and the company's intervention will not disrupt the resolution of the case. As such, there is no prejudice to the original parties. A.O. Smith's motion to intervene is, therefore, timely.

B. **A.O. Smith unquestionably has an interest in the subject matter of this case.**

The Town alleges that the loss of A.O. Smith as a customer would result in a loss of 70 percent of the Town's water system revenue. (Verified Complaint, ¶¶ 8 and 34). As discussed above, the issue before this Court is whether the Town or Alligator is entitled to the protection of 7 U.S.C. § 1926(b). As such, the outcome of this litigation will determine which water utility serves A.O. Smith's future water service needs. A determination that the Town has the exclusive right to provide that service would be detrimental to A.O. Smith's operations at the Chesterfield County facility. This interest clearly entitles A.O. Smith to intervene in this matter. The South Carolina Supreme Court has described the interest required for intervention as follows:

> Generally, the rules of intervention should be liberally construed where judicial economy will be promoted by declaring the rights of all affected parties. *Berkeley Elec. Coop.*, 302 S.C. at 189, 394 S.E.2d at 714. Accordingly, the Court should consider the practical implications of a decision denying or allowing intervention. *Id.* However, a party must have standing to intervene in an action pursuant to Rule 24, SCRCP. *Bailey v. Bailey*, 312 S.C. 454, 458, 441 S.E.2d 325, 327 (1994). A party has standing if the party has a personal stake in the subject matter of a lawsuit and is a "real party in interest." *Id.* "A real party in interest . . . is one who has a real, actual, material or substantial interest in the subject matter of the action, as distinguished from one who has only a nominal, formal, or technical interest in, or connection with, the action." *Id.* (citations omitted).

Ex parte Gov't Employee's Ins. Co., 373 S.C. 132, 138, 644 S.E.2d 699, 702 (2007). Again, there is no doubt that A.O. Smith "has a personal stake in the subject matter of the lawsuit" and has a "real, actual, material [and] substantial interest in the subject matter of the action." As such, A.O. Smith satisfies this prong of the test for intervention under Rule 24(a)(2).

C. **This Court's ruling on the claims in this case would not only impair A.O. Smith's ability to protect its interest in this action, but could effectively prevent A.O. Smith from obtaining the water service necessary to support the operation of its Chesterfield County facility.**

For all the reasons stated above, A.O. Smith can only protect its interest to reliable, adequate water service by intervening in this case. With respect to this third prong of the test for intervention under Rules 24(a)(2), the South Carolina Supreme Court has held:

> The *Sagebrush* test further requires that the prospective intervenor demonstrate that without its intervention, the disposition of the case may impair or impede its ability to protect its interest. To meet that requirement, a party need not prove that it would be bound in a *res judicata* sense by the judgment, only that it would have difficulty adequately protecting its interests if not allowed to intervene. *Spring Construction Co., Inc. v. Harris*, 614 F.2d 374 (4th Cir.1980).

Berkeley Elec. Co-op., 302 S.C. at 190-91, 394 S.E.2d at 715. If this Court rules that the Town is entitled to protection of the A.O. Smith water service area under 7 U.S.C. § 1926(b), A.O. Smith would be unable to obtain services from Alligator, even though, upon information and belief, the Town's services are unreliable and inadequate to meet the company's needs. Moreover, as an at-will customer of the Town, A.O. Smith has no legal obligation to continue to obtain water service through the Town. Without A.O. Smith's intervention, this Court's ruling would impair and impede the company's ability to protect those interests. A.O. Smith therefore satisfies the third prong of the test for intervention under Rule 24(a)(2).

D. **A.O. Smith interests will not be adequately represented by Alligator.**

Alligator cannot adequately represent the interest of A.O. Smith in this action. Regarding the fourth prong of the test, the South Carolina Supreme Court has held:

> The burden of demonstrating inadequacy of representation is on the applicant. *S.C. Tax Commission v. Union County Treasurer, supra.* This burden is **minimal** and the applicant need only show that the representation of his interests "may be" inadequate. *Trbovich v. United Mine Workers of America*, 404 U.S. 528, 92 S.Ct. 630, 30 L.Ed.2d 686 (1972).

Berkeley Elec. Coop., 302 S.C.at 191, 394 S.E.2d at 715 (emphasis added). Although A.O. Smith and Alligator both seek the same ruling in this case, A.O. Smith's interests in that ruling are not the same as those of Alligator. Alligator's interests in this litigation involve the protection of its service area. A.O. Smith's interest is the need to obtain reliable and adequate water service to support its operations at the Chesterfield County facility. A.O. Smith clearly views the potential outcome of this litigation from a different perspective than Alligator. Moreover, A.O. Smith would present additional arguments in support of its position that the company is entitled to terminate service with the Town and obtain water service from Alligator. Accordingly, A.O. Smith satisfies all four prongs of the test and is therefore entitled to intervention by right in this case pursuant to Rule 24(a)(2).

II. ADDITIONALLY, OR IN THE ALTERNATIVE, A.O. SMITH IS ENTITLED TO PERMISSIVE INTERVENTION PURSUANT TO RULE 24 (B).

In addition to A.O. Smith's right to intervene under Rule 24(a), A.O. Smith satisfies the requirement for permissive intervention under Rule 24(b). Rule 24(b) provides for permissive intervention and provides in relevant part that a party may intervene : "(2) when an applicant's claim or defense and the main action have a question of law or fact in common." S.C. R. Civ. P. 24(b). "Like permissive joinder, Rule 24(b) intervention is premised upon the theory that when claims or defenses have a question of law or fact common to each other, sound administrative procedures encourage the disposition of all of the claims or defenses in one action rather than a multiplicity of actions." *South Carolina Tax Comm'n*, 295 S.C. at 263, 368 S.E.2d at 75. "To warrant intervention under Rule 24(b) an applicant should ordinarily show he is charged with a public duty requiring him to intervene, or he has a claim or defense involving a question of law or fact in common with the main action. A mere general interest in the subject matter of the litigation is not sufficient." *Id.* at 262, 368 S.E.2d at 75. Again, as an at-will customer of the

Town, A.O. Smith has a right to terminate that service and obtain reliable, adequate service from Alligator. For all of the reasons stated above, A.O. Smith unquestionably has more than a "mere general interest in the subject matter of the litigation." The outcome of this litigation will impact A.O. Smith's ability to obtain the level of water service needed to properly operate its Chesterfield County facility. As such, if the Court does not grant intervention of right, A.O. Smith is entitled to permission intervention pursuant to Rule 24(b).

CONCLUSION

A.O. Smith has been a good citizen of Chesterfield County for over 35 years. It simply asks this Court to allow it to participate in this proceeding to protect its interests in running its plant efficiently and safely. Accordingly, for the reasons stated above, A.O. Smith moves the Court for an order permitting the company to intervene in this action, and to allow it to file its Answer and Counterclaims, a copy of which is attached hereto as Exhibit A.

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Attorneys for Movant/Proposed Intervenor
A. O. Smith Corporation

February 2, 2016
Columbia, South Carolina

EXHIBIT A

2016 FEB 2 AM 11 27

FAYE L. GRIGGS
CLERK OF COURT
CHESTERFIELD COUNTY, SC

A True Copy, Attest

Faye L. Griggs

CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

STATE OF SOUTH CAROLINA COUNTY OF CHESTERFIELD	IN THE COURT OF COMMON PLEAS
Town of McBee, Plaintiff, vs. Alligator Rural Water & Sewer Company, Inc., Alligator Rural Water Company, Inc., Defendants, and A.O. Smith Corporation, Intervenor-Defendant.	Case No. 2015-CP-13-379 **ANSWER AND COUNTERCLAIMS OF INTERVENOR/DEFENDANT A. O. SMITH CORPORATION**

2016 FEB 2 PM 1:17
CHESTERFIELD COUNTY, SC
FILED

Intervenor/Defendant A. O. Smith Corporation ("A.O. Smith"), hereby answers the Complaint of the plaintiff, Town of McBee ("Town" or "Plaintiff"):

FOR A FIRST DEFENSE
(Allegations of the Complaint)

1. Each and every allegation of the Complaint not hereinafter specifically admitted is denied and strict proof thereof is demanded.

NATURE OF THE ACTION

2. Responding to Paragraph 1 of the Complaint, A.O. Smith craves reference to the statutes referenced in said paragraph and asserts that the statutes speak for themselves. Further responding, A.O. Smith denies that Plaintiff is entitled to the protections claimed and demands strict proof thereof.

A True Copy, Attest
Faye F. Sellers
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

PARTIES, JURISDICTION, AND VENUE

3. A.O. Smith admits only so much of the allegations contained in Paragraph 2 of the Complaint as alleges the Town is a municipal corporation organized under the laws of the State of South Carolina and that the Town currently sells water to the A.O. Smith facility located at 25589 U.S. 1, McBee, Chesterfield County, South Carolina 29101 ("Chesterfield County Facility" or the "A.O. Smith Facility"). A.O. Smith denies all remaining allegations contained in Paragraph 2 and demands strict proof thereof. Further responding, A.O. Smith denies that the Town, by selling water to the A.O. Smith Facility, has provided or made service available to the A.O. Smith Facility as required for the protection of the A.O. Smith service area pursuant to 7 U.S.C. § 1926(b).

4. Upon information and belief, A.O. Smith admits only so much of the allegations contained in Paragraph 3 of the Complaint as allege that Alligator Rural Water & Sewer Company, Inc. ("Alligator") is a South Carolina corporation with its principal place of business at 378 W. Pine Avenue, McBee, Chesterfield County, South Carolina 29101. The remaining allegations of Paragraph 3 of the Complaint are denied.

5. Upon information and belief, A.O. Smith admits only that the Town asserts claims and seeks declaratory relief under federal statutes and that the issue of jurisdiction is a legal conclusion to which no answer or other response is required. The remaining allegations of Paragraph 4 of the Complaint are denied.

6. Upon information and belief, and subject to its response to Paragraph 4 of the Complaint, A.O. Smith admits the allegations contained in Paragraph 5 of the Complaint

FACTUAL ALLEGATIONS

7. Upon information and belief, A.O. Smith admits only so much of the allegations contained in Paragraph 6 of the Complaint as allege that the Town sells water to customers, including A.O. Smith, in areas within and outside of the municipal limits of the Town of McBee. The remaining allegations contained in Paragraph 6 of the Complaint are denied. Further responding, A.O. Smith denies that the Town by selling water to the A.O. Smith Facility has provided or made service available to the A.O. Smith Facility as required for the protection of the A.O. Smith service area pursuant to 7 U.S.C. § 1926(b).

8. A.O. Smith admits only so much of the allegations contained in Paragraph 7 of the Complaint as allege that A.O. Smith has been provided water through the Town since A.O. Smith purchased the Facility. The remaining allegations contained in Paragraph 7 of the Complaint are denied. Further responding, A.O. Smith denies that the Town by selling water to the A.O. Smith Facility that it received from Alligator, has provided or made service available to the A.O. Smith Facility as required for the protection of the A.O. Smith service area pursuant to 7 U.S.C. § 1926(b).

9. A.O. Smith lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Complaint and therefore denies them.

10. A.O. Smith lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint and therefore denies them.

11. A.O. Smith lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Complaint and therefore denies them.

12. A.O. Smith admits only so much of the allegations contained in Paragraph 11 of the Complaint as allege that the Town operates water lines and water storage facilities within and

outside the municipal limits of the Town. The remaining allegations contained in Paragraph 11 of the Complaint are denied. Further responding, A.O. Smith denies that the Town has provided or made service available to the A.O. Smith Facility as required for the protection of the A.O. Smith service area pursuant to 7 U.S.C. § 1926(b).

13. A.O. Smith admits only so much of the allegations contained in Paragraph 12 of the Complaint as allege that the Town operates water lines and water storage facilities which currently transmit water to the A.O. Smith Facility. The remaining allegations contained in Paragraph 11 of the Complaint are denied. Further responding, A.O. Smith denies that the Town has provided or made service available to the A.O. Smith Facility as required for the protection of the A.O. Smith service area pursuant to 7 U.S.C. § 1926(b).

14. A.O. Smith admits only so much of the allegations contained in Paragraph 13 of the Complaint as allege that Alligator claims the right to service the A.O. Smith Facility which is in Alligator's existing service area. The remaining allegations contained in Paragraph 13 of the Complaint are denied. Further responding, A.O. Smith alleges that A.O. Smith is an at-will water customer of the Town and has requested that Alligator provide water service to the A.O. Smith Facility. A.O. Smith further alleges that Alligator has provided and made service available to the A.O. Smith Facility which is in the Alligator service area protected under 7 U.S.C. § 1926(b).

15. A.O. Smith denies the allegations contained in Paragraph 14 of the Complaint and demands strict proof thereof.

16. A.O. Smith denies the allegations contained in Paragraph 15 of the Complaint and demands strict proof thereof.

PLAINTIFF'S FIRST CLAIM FOR RELIEF
(Violation of 7 U.S.C. § 1926(b))

17. Responding to Paragraph 16 of the Complaint, A.O. Smith incorporates by reference its responses to Paragraphs 1 through 15 of the Complaint as though fully set forth herein.

18. A.O. Smith denies the allegations contained in Paragraph 17 of the Complaint and demands strict proof thereof.

19. A.O. Smith denies the allegations contained in Paragraph 18 of the Complaint and demands strict proof thereof.

20. Responding to Paragraph 19 of the Complaint, A.O. Smith craves reference to the statute referenced in said paragraph and asserts that the statute speaks for itself. Further responding, to the extent that the Town asserts that the allegations contained in Paragraph 19 establish a claim by the Town to the protections of 7 U.S.C. § 1926(b) as a service area which includes the A.O. Smith Facility, A.O. Smith denies the allegations contained in Paragraph 19 and demands strict proof thereof.

21. A.O. Smith denies the allegations contained in Paragraph 20 of the Complaint and demands strict proof thereof.

22. A.O. Smith denies the allegations contained in Paragraph 21 of the Complaint and demands strict proof thereof.

23. A.O. Smith denies the allegations contained in Paragraph 22 of the Complaint and demands strict proof thereof.

24. A.O. Smith denies the allegations contained in Paragraph 23 of the Complaint and demands strict proof thereof.

PLAINTIFF'S SECOND CLAIM FOR RELIEF
(Violation of S.C. Code Ann. § 33-36-270)

25. Responding to Paragraph 24 of the Complaint, A.O. Smith incorporates by reference its responses to Paragraphs 1 through 41 of the Complaint as though fully set forth herein.

26. Upon information and belief, A.O. Smith admits the allegations contained in Paragraph 25 of the Complaint.

27. Responding to the allegations contained in Paragraph 26 of the Complaint, A.O. Smith craves reference to the statute referenced therein and asserts that the statute speaks for itself.

28. Responding to the allegations contained in Paragraph 27 of the Complaint, A.O. Smith craves reference to the statute referenced therein and asserts that the statute speaks for itself.

29. A.O. Smith denies the allegations contained in Paragraph 28 of the Complaint and demands strict proof thereof. Further responding, A.O. Smith alleges that the A.O. Smith Facility is in the existing service territory of Alligator.

30. A.O. Smith denies the allegations contained in Paragraph 29 of the Complaint and demands strict proof thereof. Further responding, A.O. Smith alleges that no notice was required prior to Alligator providing service to the A.O. Smith Facility as the A.O. Smith Facility is within the existing service territory of Alligator

31. A.O. Smith denies the allegations contained in Paragraph 30 of the Complaint and demands strict proof thereof.

32. A.O. Smith denies the allegations contained in Paragraph 31 of the Complaint and demands strict proof thereof.

PLAINTIFF'S THIRD CLAIM FOR RELIEF

33. Responding to Paragraph 32 of the Complaint, A.O. Smith incorporates by reference its responses to Paragraphs 1 through 31 of the Complaint as though fully set forth herein.

34. A.O. Smith denies the allegations contained in Paragraph 33 of the Complaint and demands strict proof thereof.

35. A.O. Smith denies the allegations contained in Paragraph 34 of the Complaint and demands strict proof thereof.

36. A.O. Smith denies the allegations contained in Paragraph 35 of the Complaint and demands strict proof thereof.

37. A.O. Smith denies the allegations contained in Paragraph 36 of the Complaint and demands strict proof thereof.

38. A.O. Smith denies the allegations contained in Paragraph 37 of the Complaint and demands strict proof thereof.

FOR A SECOND DEFENSE

39. The Complaint fails to state a claim upon which relief can be granted.

COUNTERCLAIMS OF INTERVENOR/DEFENDANT A.O. SMITH AGAINST PLAINTIFF TOWN OF McBEE

INTRODUCTORY FACTS

1. A.O. Smith owns and operates a manufacturing facility (the "Chesterfield County facility") in an unincorporated area of Chesterfield County, South Carolina. A.O. Smith manufactures water heaters and boilers at the Chesterfield County facility, which also includes

an engineering division that designs and tests company products. The Chesterfield County facility has been in operation since 1980 and employs more than 500 persons.

2. The A.O. Smith facility currently operates five days per week with two shifts of eight hours each. During operating hours, the facility's manufacturing, testing, and domestic water requirements are 161 gallons per minute ("gpm") on an average day and 239 gpm on a peak use day. Additionally, A.O. Smith's fire protection system requires a heightened, minimum instantaneous flow for not less than two hours.

3. In 1979, A.O. Smith and the Town entered a 30-year "non-annexation" agreement under which the Town agreed to supply water to the Chesterfield County facility. Since that time, A.O. Smith has purchased water service from the Town, which is a municipal corporation organized and existing under the laws of the State of South Carolina. The 1979 contract, however, expired in 2009 and there is no current contract between A.O. Smith and the Town.

4. The A.O. Smith facility is situated beyond, and is not contiguous to, the Town's corporate limits. The facility, however, is located within the service area of Alligator, which operates a public water supply and distribution system throughout a large area of Chesterfield County.

5. Prior to 1999, the Town supplied water to A.O. Smith from Town wells. In 1999, the Town shut down its wells and entered an agreement with Alligator, under which Alligator became the sole water supplier to the Town. As of today, Alligator is still the sole water source for the Town and, in turn, the Town's retail customers, including A. O. Smith. Stated differently, since 1999, all of the water that A.O. Smith has purchased from the Town, and used at its facility, has actually been supplied by Alligator.

6. Presently, the Town's public water supply distribution system (the "Town System") is generally comprised of two (2) elevated tanks, a wholesale connection to the Alligator system, and water distribution lines of differing sizes. The Town's water lines are primarily small in diameter, with a larger 12-inch line extending along U.S. Highway 1 between the A.O. Smith facility and the town limits near the intersection of US Highway 1 and Juniper Avenue. One of the two elevated tanks is located in the Town near the intersection of US Highway 1 and Juniper Avenue and has a capacity of 75,000 gallons. The other is located adjacent to the A.O. Smith facility and has a capacity of 250,000 gallons. The two tanks are connected by the 12-inch water main described above.

7. In comparison to the Town's total water storage capacity of 325,000 gallons, the Alligator system has 3,500,000 gallons of storage capacity within two miles of the A.O. Smith facility. Additionally, Alligator has a 24-inch water line which runs along U.S. Highway No. 1 adjacent to the facility.

8. In 2011, A.O. Smith advised the Town that the Chesterfield County facility would require an instantaneous demand of 2,000 gpm at a minimum of 98 psi for its fire protection system and an additional 500 gpm for a proposed expansion of the facility. When the Town failed to address A.O. Smith's concerns, the company entered into discussions with Alligator regarding water service for its Chesterfield County facility. Alligator advised A.O. Smith that it had 8,000,000 gallon per day in excess capacity and could provide up to 4,000 gpm to the Chesterfield County facility and sustain that flow on a continuous basis.

9. By letter dated October 10, 2013, the Town informed A.O. Smith that it intended to place its two existing water supply wells back into operation. Upon information and belief, as alleged above, these wells were previously taken out of service at the direction of DHEC in the

early 2000s when contaminants were detected in the water from the wells. The Town further advised A.O. Smith that these two wells would meet all of the water source requirements for the Town System.

10. A.O. Smith must have an adequate and reliable source of water service. Upon information and belief, the two water wells, operating without a backup source from Alligator, will not be sufficient to meet A.O. Smith's demand, including the instantaneous fire flow demands of the A.O. Smith facility. Upon information and belief, the capacity of these wells does not meet the redundancy requirements of Section 61-58.2(B)(1) of the State Primary Drinking Water Regulation. S.C. REG. ANN. § 61-58.2(B)(1).

11. In recent months, the Town's service to A.O. Smith has been interrupted and inadequate to meet its water needs on certain occasions. For example, on June 19, 2015, A.O. Smith lost water pressure at the Chesterfield County plant to the point that all essential water uses were curtailed. Moreover, on certain occasions, the Town has failed to maintain storage capacity needed to ensure adequate pressure for A.O. Smith's fire protection system.

12. In addition to issues with regard to adequacy and reliability with the Town System, A.O. Smith believes that the Town may have been overbilling its retail customers, including A.O. Smith, for water service in recent years. In 2013, Alligator increased its wholesale water rate to $1.92/thousand gallons. In October 2013, the Town increased the water rate charged to its customers, assertedly based on this increase by Alligator. However, upon information and belief, the Town has continued to pay Alligator at a rate of $1.25/thousand gallons.

13. Based on A.O. Smith's water use through August 2015, the difference between pre-October 2013 rate and current rate charged to the Town's commercial customers results in overbilling to A.O. Smith of more than $60,000.

14. The current dispute between the Town and Alligator is not good for A.O. Smith, and it is not good for community. The Town's attempt to prevent Alligator from serving A.O. Smith deprives the company of the adequate and reliable water service necessary to support its current operations and presents a major obstacle for any future expansions of the Chesterfield County facility.

15. The Town's efforts are also contrary to the best interests of A.O. Smith and other existing and potential industrial facilities in the area. The availability of basic utilities is a fundamental consideration for any new industrial development. The Town's claim that it is entitled to protected service areas outside of its municipal limits, without complying with S.C. CODE ANN. § 5-31-1910, could have the undesirable effect of discouraging the siting of any new industrial development in that area which requires process water for its operation. The Town does not have adequate capacity to serve A.O. Smith, and therefore, could not supply any additional industry.

FIRST COUNTERCLAIM OF INTERVENOR/DEFENDANT A.O. SMITH
(Declaratory Judgment under S.C. Code Ann. §§ 15-53-20, *et seq.* or, alternatively, under 28 U.S.C. §§ 2201, 2202)

16. A.O. Smith reaffirms and reiterates Paragraphs 1 through 15 contained in the Counterclaims herein as fully as if repeated verbatim.

17. Pursuant to S.C. CODE ANN. §§ 15-53-20, *et seq.*, or alternatively 28 U.S.C. §§ 2201, 2002, A. O. Smith prays for a declaration, as follows:

a. That it does not have a contract with the Town of McBee for the provision of water, that it is an "at-will" customer and it is entitled to terminate water service with the Town.

b. That under S.C. CODE ANN. § 5-31-1910, the Town cannot contract with A.O. Smith because, although it is outside the corporate limits of the Town, its facility is not contiguous with those corporate limits.

c. That the A.O. Smith facility is not located within the service area of the Town and, therefore, the Town is not entitled to the protection of that service area under 7 U.S.C. §1926(b).

d. That the A.O. Smith facility is located within the service area of Alligator and, therefore, Alligator is entitled to the protection of that service area under 7 U.S.C. § 1926(b).

18. Pursuant to S.C. CODE ANN. § 15-53-100, A. O. Smith also prays this Court to award costs, including attorney fees, as it may seem equitable and just.

SECOND COUNTERCLAIM
(Accounting)

19. A.O. Smith reaffirms and reiterates Paragraphs 1 through 18 contained in the Counterclaims herein as fully as if repeated verbatim.

20. A.O. Smith prays for an accounting from the Town of McBee as to the operation of the Town System since 2006 to the present date.

21. In specific, A.O. Smith prays that this Court order the Town to account for (a) the monies it paid to Alligator for water is resold to A.O. Smith and its other water customers, (b) the monies it collected from such customers for water service, and (c) all expenditures related to the Town System or water service to A.O. Smith and other water customers.

WHEREFORE, A.O. Smith Does Pray:

1. That the Complaint be dismissed;
2. That A.O. Smith have judgment on its counterclaims;
3. That the Town be enjoined from interfering with A.O. Smith's efforts to secure an alternative source of water from Alligator;
4. For a jury trial on all triable issues of fact contained in the pleadings;
5. For reasonable attorney's fees under S.C. CODE ANN. § 15-77-300; and
6. For such other and further relief as the Court may find just and proper.

Marguerite S. Willis

Marguerite S. Willis
Joan W. Hartley
NEXSEN PRUET, LLC
1230 Main Street, Suite 700 (29201)
Post Office Box 2426
Columbia, SC 29202
803.771.8900

Attorney for Intervenor/Defendant
A. O. Smith Corporation

February 2, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA COUNTY OF CHESTERFIELD	IN THE COURT OF COMMON PLEAS FOURTH JUDICIA CIRCUIT
Town of McBee, Plaintiff, vs. Alligator Rural Water & Sewer Company, Inc., Alligator Rural Water Company, Inc., Defendants.	Case No 2015-CP-13-379 **CERTIFICATE OF SERVICE**

2016 FEB 2 AM 11 27
CHESTERFIELD CO.
PAMELA K. KELLEY
CLERK OF COURT

The undersigned hereby certifies that copies of:

(1) *A.O. Smith Corporation's Notice of Motion and Motion to Intervene,* and

(2) A. O. Smith Corporation's Memorandum of Law in Support of its Motion to Intervene

have been served upon the following counsel of record by placing the same in the United States mail, first class postage prepaid, addressed to the following as shown below this 2nd day of February, 2016.

Martin S. Driggers, Jr., Esquire Richard E. McLawhorn, Jr., Esquire Sweeny Wingate & Barrow, PA 115 Cargill Way, Ste. B Hartsville, SC 29550 Belton T. Zeigler, Esquire Pope Flynn, LLC P.O. Box 11509 Columbia, SC 29211 Attorneys for the Plaintiff	William O. Spencer, Jr., Esquire Spencer Law Firm P.O. Box 190 Chesterfield, SC 29709 Attorney for the defendants Alligator Rural Water & Sewer Company, Inc. and Alligator Rural Water Company, Inc.

Pamela K Kelley

A True Copy, Attest
Paige S. Kelley
CLERK OF COURT C.P. & G.S.
CHESTERFIELD COUNTY, SC

Exhibit 4

STATE OF SOUTH CAROLINA	)	FOURTH JUDICIAL CIRCUIT
COUNTY OF CHESTERFIELD	)	CIVIL ACTION NUMBER: 2015-CP-13-379
Town of McBee,	)	
Plaintiff,	)	**CONSENT ORDER PROHIBTING DEFENDANTS FROM PROVIDING WATER SERVICES TO A. O. SMITH WHILE LITIGATION IS PENDING**
v.	)	
Alligator Rural Water & Sewer Company, Inc., Alligator Rural Water Company, Inc.,	)	
Defendants.	)	

2015 JUL 31 PM 4
FAYE L. SELLERS
CLERK
CHESTERFIELD S.C.

This matter came before the Court on the motion of the Town of McBee ("McBee") to prohibit Defendants Alligator Rural Water & Sewer Company, Inc., Alligator Rural Water Company, Inc. ("Defendants") from providing water services to the A. O. Smith Corporation's manufacturing plant located at 25589 U.S. 1, McBee, Chesterfield County, South Carolina 29101 ("A. O. Smith") until a final resolution of the current pending litigation. It having been made to appear to the Court that the Defendants have consented to such prohibition,

NOW, THEREFORE, IT IS HEREBY **ORDERED** as follows:

Defendants and/or any person or entity acting in concert or participation with the defendants are prohibited from providing water service and/or attempting to provide water service to A. O. Smith and any other area or areas included in the water service area of McBee until a full and final resolution of the present litigation. This prohibition includes the further construction of any pipelines or facilities intended to connect to A. O. Smith, contacting A. O. Smith regarding transferring water services to Alligator, entering into any contracts with A. O. Smith for the provision of water services, and/or the activation of any water pipelines owned by Defendants already connected to any pipes owned by or located on property owned by A. O. Smith until a full and final resolution of the present litigation.

AND IT IS SO ORDERED.

The Honorable Roger E. Henderson
Fourth Judicial Circuit

Chesterfield, South Carolina.
July 31, 2015

WE SO MOVE:

SWEENY, WINGATE & BARROW, P.A.

Martin S. Driggers, Jr.
Richard E. McLawhorn, Jr.
115 Cargill Way
Suite B
Hartsville, South Carolina, 29550
(843) 878-0390
ATTORNEYS FOR TOWN OF MCBEE

WE CONSENT:

SPENCER LAW FIRM

William O. Spencer, Jr.
301 West Main Street
Post Office Box 190
Chesterfield, SC 29709
(843) 623-2144
ATTORNEY FOR DEFENDANTS

AND IT IS SO ORDERED.

The Honorable Roger E. Henderson
Fourth Judicial Circuit

_____, South Carolina.

_____, 2014

WE SO MOVE:

SWEENY, WINGATE & BARROW, P.A.

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2008 WL 3863539 (S.C.Admin.Law.Judge.Div.)

Administrative Law Court

State of South Carolina

HEATH HILL PETITIONERS

v.

SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND SCE&G RESPONDENTS

Docket No. 08-ALJ-07-0183-CC

July 10, 2008

APPEARANCES

*1 n/a

ORDER LIFTING AUTOMATIC STAY

This matter came before me upon motion of Respondent South Carolina Electric & Gas Company (hereinafter "SCE&G") to lift the automatic stay imposed by former S.C. Code Ann. § 1-23-600(G)(2). SCE&G's Motion was filed on May 1, 2008. Respondent South Carolina Department of Health and Environmental Control took no position on this motion. Prior to the hearing on the Motion, the Governor signed into law H. 3575, which revised the automatic stay provisions and prescribed the standard to be used by the Administrative Law Court in deciding a motion to lift the automatic stay. The Court held a hearing on June 25, 2008. After reviewing the motion, the memoranda submitted by the parties, and the arguments presented at the hearing, the Court lifts the automatic stay.

FACTS

SCE&G operates the Wateree Station power plant ("Wateree Station") near Eastover, South Carolina. Wateree Station has operated since 1970 and generates 700 megawatts of electricity when operating at peak capacity. The Clean Air Interstate Rule ("CAIR"), 70 Fed. Reg. 25162 (May 12, 2005), promulgated by the U.S. Environmental Protection Agency ("EPA") pursuant to the Federal Clean Air Act, requires SCE&G to install pollution controls to further reduce sulfur dioxide emissions from the combustion of coal. To comply with the new regulations, SCE&G will install a $250 million flue gas desulfurization ("FGD") scrubber system. The scrubber uses calcium carbonate (limestone) as the catalyst in a chemical reaction to remove more than 95% of the sulfur dioxide ("SO2") produced during coal combustion, which results in the creation of calcium sulfate, or gypsum " the primary component of drywall. SCE&G must dispose of gypsum and ash from the FGD scrubber system.

Petitioner H. Heath Hill ("Petitioner") is a resident of the Eastover community of Richland County. His family has owned and farmed extensive lands in the Eastover community for generations. He owns and farms food and other crops on over 1,000 acres in the vicinity of the proposed ash landfill, including land contiguous to the proposed landfill site. Surface and subsurface water flows from the proposed landfill site onto the land owned by Petitioner. Petitioner breathes the air, drinks water, uses and enjoys property and other natural resources of the Eastover Community of Richland County in the vicinity of the proposed facility. Petitioner contests the issuance of the SCE&G permit.

On May 14, 2007, SCE&G submitted an application to the South Carolina Department of Health and Environmental Control ("DHEC") to construct and operate a Class 2 Industrial Solid Waste Landfill ("ISWLF") at the Wateree Station to dispose of the gypsum byproduct and ash generated by the FGD system. DHEC issued the permit for a Class 2 ISWLF on February 11, 2008.

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*2 As required by the Administrative Procedures Act ("APA"), S.C. Code Ann. §§ 1-23-310, *et seq.*, Petitioner requested a Final Review Conference before the South Carolina Board of Health and Environmental Control ("DHEC Board"), which was denied. Petitioner timely filed a Petition for Administrative Review with the South Carolina Administrative Law Court ("ALC") pursuant to S.C. Code Ann. § 1-23-600(G)(2), requesting a contested case hearing on DHEC's decision to issue the ISWLF permit. The ISWLF permit was automatically stayed pursuant to the then-existing statute, S.C. Code Ann. § 1-23-600(G)(2). On May 1, 2008, SCE&G filed a Motion to Lift Automatic Stay ("Motion") pursuant to the then-existing provisions of S.C. Code Ann.§ 1-23-600(G)(4).

On June 16, 2008, Governor Sanford signed H. 3575, which amended various provisions of the APA, including the provisions relating to the automatic stay. The statute, effective upon the Governor's signature, amended the stay provisions to prescribe for the first time the standard by which the ALC must evaluate motions to lift the automatic stay. Code Section 1-23-600(H)(4) now provides as follows:

After a contested case is initiated before the Administrative Law Court, a party may move before the presiding administrative law judge to lift the stay imposed pursuant to this subsection. **Upon motion by any party, the court shall lift the stay for good cause shown or if no irreparable harm will occur, then the stay shall be lifted.** A hearing must be held within thirty days after the motion is filed with the court and served upon the parties to lift the automatic stay or for a determination of the applicability of the automatic stay. The judge must issue an order no later than fifteen business days after the hearing is concluded. [emphasis added]

STANDARD OF REVIEW

Prior to the recent amendments to the APA, the statute was silent on the standard of review applicable to a motion to lift the automatic stay. The ALC granted motions to lift automatic stays in the past under the former stay provisions (e.g.,Rules 16 and 34, SCRALC, and S.C. Code Regs. 61-72 § 205). The test most often used in the ALC was a "balancing of the hardships" analysis pursuant to Rule 16, SCRALC, and Rule 65, SCRCP. *Thorton v. Alford*, 274 S.C. 1, 260 S.E.2d 179 (1979); *Columbia Broadcasting System, Inc. v. Custom Recording Co.*, 258 S.C. 465, 189 S.E.2d 305 (1972). [1]

The new statute prescribes two circumstances under which the ALC "shall" lift the automatic stay: (1) "for good cause shown," or (2) "if no irreparable harm will occur." The use of the term "or" appears to mean that upon a finding of either "good cause" or "no irreparable harm," the Court must lift the stay. However, Court need not reach that question of statutory interpretation in this case, because it is clear that SCE&G has demonstrated "good cause."

South Carolina courts have addressed the meaning of "good cause" in other contexts, most often in determining whether a party has shown "good cause" for granting relief from an entry of default under S.C.R.Civ.P. 55(c). [2] The ALC recently addressed "good cause" for relief from an automatic rule in the context of restoring the privilege to operate a motor vehicle after a license has been suspended. In *S.C. Dept. of Motor Vehicles v. Lajuenesse*, 2008 SC ALJ LEXIS 20 (Mar. 4, 2008), Judge Gossett considered whether Mr. Lajuenesse had shown good cause for reducing the term of his habitual offender suspension. The court stated:

*3 "Good cause" has been defined as "[a] legally sufficient ground or reason." Black's Law Dictionary 692 (6th ed. 1990). It is a "substantial reason amounting in law to a legal excuse for failing to perform an act required by law." Id. The term is "relative and highly abstract," and its meaning must be determined not only by the verbal context of the statute in which the term is used but also by the context of the action and procedures involved in type of case presented. Id.

In various contexts, courts have found that "good cause" requires more than personal circumstances or facts that are common to the population in general. See, e.g., *Faile v. S.C. Employment Sec. Comm'n*, 267 S.C. 536, 541-42, 230 S.E.2d 219, 222-23 (1976); S.C. Dep't of Motor Vehicles v. Watts, 07-ALJ-21-0134-AP, at 5 (S.C. Admin. Law Ct., Jan. 24, 2008). A determination of whether good cause exists may require a balancing of the needs of the parties and public policy. See, e.g., *Doe v. Ward Law Firm*, 353 S.C. 509, 514-15, 579 S.E.2d 303, 305 (2003) (finding good cause to examine the medical records of the biological

parents based upon the compelling needs of the adopted child and balancing the privacy rights of the partiesagainst the best interest of the child). Good cause must be determined on a case-by-case basis. See *Watts*, 07-ALJ-21-0134-AP, at 6; Black's Law Dictionary 692 (6th ed. 1990).

Lajuenesse, 2008 SC ALJ LEXIS 20, pp. 17-18.

In *Lajuenesse*, it was the Respondent's failure to show some reason to reduce his suspension "beyond that which is generally common to all drivers"; i.e., the inconvenience of being without a license, that was fatal. The principle articulated in the case is that "good cause" requires some showing more than "any cause," which would render the word "good" meaningless. *See Lajuenesse*, 2008 SC ALJ LEXIS 20, p. 21.

CAIR requires SCE&G to install pollution controls to reduce sulfur dioxide emissions from the combustion of coal. To comply with the new regulations, SCE&G will install a $250 million FGD scrubber system. Affidavits from SCE&G project managers Philip Dooley and Jean-Claude Younan establish that SCE&G must have the FGD scrubber system installed and operable no later than June 17, 2009. An integral feature of the FGD scrubber system is a place to manage the gypsum and ash from the system. SCE&G determined that an on-site landfill was the preferred disposal alternative. Even if off-site disposal capacity were available for the expected volume of material to be generated, moving the material to an off-site location would require fully loaded trucks to leave the Wateree site every 20 to 30 minutes around the clock. The resultant noise, safety issues, and diesel emissions would create environmental concerns for the area.

To meet the project deadline, SCE&G needs to begin construction of the landfill no later than July 2008. If the stay is not lifted, SCE&G risks being unable to meet the deadlines set by EPA to achieve mandatory reductions in air pollution.

*4 SCE&G seeks to have the automatic stay lifted to complete construction of the ISWLF, not to begin to place any waste in the landfill. SCE&G's contractor is currently clearing and grading the landfill site pursuant to the Construction Stormwater Permit issued by DHEC on February 26, 2008 after Richland County approved the construction plans on January 17, 2008. The approved construction plans cover Cells 1-5 (in Phase 1) of the landfill.

The Construction Stormwater Permit allows the area where the landfill will be located to be excavated and graded. To perform the actual construction; that is, to place the clay liner in the landfill cells, SCE&G must have the stay lifted.SCE&G needs to construct the clay liner system contemporaneously with the excavation for both logistical and cost reasons. As material is excavated from the cells, the contractor will determine what material has the proper characteristics for compaction to meet the permeability requirements for the landfill liner system and will construct the liner using that material (and offsite material as necessary). The remaining material will be stockpiled. To construct the liner in a separate step would create logistical problems because of the need for excess stockpile area, and cost issues because of the handling the material twice.

SCE&G has agreed that it is proceeding at its own risk, *i.e*, that when this contested case ends, SCE&G will be responsible for ensuring that the landfill is used, if at all, in accordance with the final order in the contested case.

In this case, compliance with Federal clean air laws is an urgent and compelling reason to lift the automatic stay; thus, lifting the stay is in the public interest. *See Superior Servs. v. Dalton*, 851 F. Supp. 381 (S.D. Cal. 1994) (court held that the Navy set forth compelling reasons for lifting an automatic stay, including the need to award a contract to a qualifying entity and the need to provide essential health and safety services); *Dairy Maid Dairy v. U.S.*, 837 F. Supp. 1370(E.D. Va. 1993) (by statute, protest of a government procurement contract automatically stays the award of the contract pending a decision by the Government Accounting Office, unless "urgent and compelling circumstances that significantly affect interests of the United States will not permit waiting for the decision of the Comptroller General concerning the protest").

If the stay is lifted, construction of the landfill pursuant to the terms of the DHEC permit will not preclude SCE&G from complying with any terms the court may impose upon the permit. The public policy underlying the automatic stay"the risk

that a party's right to challenge a regulatory action might be negated if the regulatory action were not stayed"simply is not a consideration here. Thus, when SCE&G's need to begin construction is balanced with the public policy represented by the stay, the balance is in SCE&G's favor.

Petitioner argues that he will suffer irreparable harm if the stay is lifted. First, he argues that construction of the landfill will lead to contamination of adjacent areas, principally from the contaminants present in coal ash. This argument, however, relates to the alleged ill effects of placement of waste in the landfill, not to any harm from the construction itself.[3] At the hearing, Petitioner introduced the affidavit of his proposed expert witness, Dr. David Freedman, and arguedthat current stormwater controls at the site are inadequate. This argument, even if true, is irrelevant to the issue of the stay of the landfill permit. SCE&G is clearing and grading the site under its stormwater permit, which prescribes the stormwater controls which must be established and maintained during clearing and grading. The stormwater permit has not been appealed, and allegations of noncompliance with the stormwater permit are not properly before me in this matter.

*5 Petitioner's second argument relates to alleged harm resulting from construction. Petitioner claims wetlands on the site and a possible archaeological site will be destroyed if the stay is lifted.

As an initial matter, the Court notes that the authorization to clear and grade the site was granted under the stormwater permit. The issue before the Court is whether the landfill permit should continue to be stayed or whether the stay should be lifted. Continuing the stay of the landfill permit will do nothing to avert impacts to wetlands and archaeological sites where those areas may be cleared and graded under the stormwater permit.

At the hearing, the parties attempted to identify on an aerial map the approximate location of the wetlands and archaeological site. It appears that the archaeological site and most of the alleged wetlands are outside the footprint of Phase Iof the landfill. Following the hearing, SCE&G submitted an affidavit of Project Manager Jean-Claude Younan regarding the location of these areas. The alleged wetlands included an isolated 1.75 acre area and three ditches. During the clearing and grading performed under the stormwater permit, SCE&G graded part of the ditches but has otherwise not impacted the alleged wetlands. The archaeological site is located in Phase 2 of the landfill and has not been impacted. SCE&G's stormwater permit allows clearing and grading of 120 acres in association with the construction of Cells 1-5 (in Phase 1) of the landfill. Cells 1-5 comprise approximately 35 acres of the total 120-acre area covered by the stormwater permit. Cells 1-5 are projected to have sufficient capacity for disposal of five years of gypsum and ash from the FGD system, assuming maximum production and no gypsum recycling. SCE&G will have to obtain another stormwater permit before beginning site work on additional cells and does not anticipate doing so for about four years, well after this case is resolved.

CONCLUSION

The Court finds that SCE&G has demonstrated good cause for lifting the stay in order for SCE&G to construct cells 1-5 in Phase I of the landfill. Therefore, it is **ORDERED** that the stay is lifted pursuant to S.C. Code Ann. § 1-23-600 (H)(4).

AND IT IS SO ORDERED.

Carolyn C. Matthews
Administrative Law Judge

Footnotes

1 See Slovic v. S.C. Dept. of Health & Envt'l Control, 1999 WL 988662 (99-ALJ-07-0196-CC, Oct. 7, 1999) Greenville Metro Treatment Center v. S.C. Dept. of Health & Envt'l Control, 1998 WL 166271 (97-ALJ-07-0143-CC, Mar. 27, 1998); Bishop v. S.C. Dept. of Health & Envt'l Control, 1995 WL 930057 (95-ALJ-07-0513-CC, Nov. 16, 1995)(all granting motions to lift automatic stays)

2 In analyzing good cause to set aside an entry of default, judges must consider (1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted. *Wham v. Shearson Lehman Bros., Inc.*, 298 S.C. 462, 381 S.E.2d 499 (Ct. App. 1989). The *Wham* factors have also been applied in the ALC where a party sought relief from dismissal because of a procedural default. *See also S.C. Dept. of Revenue v. Sandy's Lakeside Bar & Grill*, 2006 S.C. Tax LEXIS 192 (Nov. 1, 2006)(under Rule 55(c) standard, finding good cause to relieve respondent from dismissal for failure to timely file Letter of Protest); *S.C. Dept. of Revenue v. Place to Go Management*, 2006 S.C. Tax LEXIS 184 (Oct. 16, 2006)(finding no good cause to relieve respondent from dismissal for failure to timely file Letter of Protest); *Duffey v. SC. Dept. of Health and Human Services*, 2005 SC ALJ LEXIS 741 (finding no good cause to relieve respondent from dismissal for failure to file a brief).

3 The Court rejects the argument that it "seems plausible that the court would be unlikely, or at least reluctant, to require SCE&G to modify its landfill design once the actual landfill is constructed." While the Court has formed no opinion as to whether the DHEC permit complies with the requirements of South Carolina law and regulations, the Court fully intends to make its determination following a hearing on the merits and to rule accordingly. SCE&G's explicit agreement to proceed at its own risk means that if the ultimate decision in this case requires that the landfill design be modified, then SCE&G will make the modification.

2008 WL 3863539 (S.C.Admin.Law.Judge.Div.)

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

MRI at Belfair, LLC; Hilton Head Regional Medical Center; and Hilton Head Imaging, Inc., Petitioners, vs. South Carolina Department of Health and Environmental Control and Southern MRI, Respondents.	Docket No. 07-ALJ-07-0538-CC ORDER ON MOTION TO LIFT STAY

STATEMENT OF THE CASE

This matter is before the Administrative Law Court ("ALC") on the motion of Respondent Southern MRI to lift the automatic stay imposed by S.C. Code Ann. § 1-23-600(G)(2).[1] Petitioners MRI at Belfair, LLC ("MRI at Belfair"); Hilton Head Regional Medical Center ("Hilton Head Regional"); and Hilton Head Imaging, Inc. ("Hilton Head Imaging") (collectively, "Petitioners") oppose the lifting of the stay. Respondent Department of Health and Environmental Control ("Department") does not object to the lifting of the stay. The court held an expedited hearing on this motion on May 12, 2008. Upon consideration of the parties' written memoranda and oral argument at the motions hearing, the court grants the Petitioners' motion.

On September 19, 2007, the Department granted Southern MRI's request for a non-applicability determination ("N/A Determination") regarding its proposal to purchase and operate a magnetic resonance imaging ("MRI") unit and computer tomography ("CT") unit in Beaufort County, South Carolina. Upon exhaustion of the administrative process with the Department, MRI at Belfair and Hilton Head Regional timely filed a request for a contested case hearing before the ALC challenging the Department's determination. Hilton Head Imaging later

[1] By order dated April 30, 2008, the court granted the Petitioners' motion to enforce the automatic stay of § 1-23-600(G)(2). Pursuant to § 1-23-600(G)(4), Respondent Southern MRI promptly filed a motion to lift the automatic stay.

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SC ADMIN. LAW COURT

intervened as a Petitioner. By way of the present motion, Southern MRI seeks to proceed with its planned operation of the MRI and CT units on Hilton Head Island.

Southern MRI has been providing imaging services on Hilton Head Island since the late 1990s. Most recently it was providing imaging services through a Siemens Impact Expert 1.0T MRI at its facility located at 460 William Hilton Parkway. This facility is down the road from the facility that will house the MRI and CT units that are the subject of this action. Further, an affiliated entity, Southern Open MRI located in Bluffton, South Carolina, provides imaging services to the Hilton Head area through a Hitachi Aris II .3T MRI.

After the Department granted Southern MRI's N/A Determination, Southern MRI began construction of its new facility and installation of a GE 1.5T Signa HiSpeed MRI and a GE 4 Slice CT, the MRI and CT units that are at issue in this matter. In March 2008, Southern MRI decommissioned its Siemens unit intending to utilize its newly installed GE unit on Hilton Head Island. Patients in the Hilton Head and Bluffton areas may obtain imaging services from a variety of providers, including, for example, Hilton Head Regional, Hilton Head Imaging, MRI at Belfair, Southern Open MRI, and, until recently, Southern MRI.

DISCUSSION

a. Standard to Lift Stay

The Administrative Procedures Act provides for an automatic stay of an agency decision to issue a new license when a contested case hearing is requested. § 1-23-600(G)(2) ("A request for a contested case hearing for a decision to issue a new license stays all actions for which the license is a prerequisite."). After a contested case hearing is initiated before the ALC, any party may move for the presiding administrative law judge to lift the automatic stay. § 1-23-600(G)(4). The parties agree that subsection (G)(4) does not provide a standard as to the circumstances under which the automatic stay should be lifted. Their positions diverge somewhat as to the standard they urge this court to apply.

Generally, the decision to grant or refuse a stay is discretionary and should be exercised with caution after balancing competing interests. Carolina Water Serv., Inc. v. Lexington County Joint Mun. Water & Serv. Comm'n, 367 S.C. 141, 153 n.2, 625 S.E.2d 227, 233 n.2 (Ct. App. 2006), rev'd on other grounds, 373 S.C. 96, 644 S.E.2d 681 (2007). Southern MRI and Petitioner MRI at Belfair agree that, in exercising its discretion as to whether to lift the stay, the

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court should employ a balancing test.[2] Merritt Bros., Inc. v. Marine Midlands Realty Credit Corp., 307 S.C. 213, 414 S.E.2d 167 (1992) ("An equitable stay may be invoked if justified by circumstances which outweigh any potential harm to the party against whom it is operative. In making this determination, the court 'must weigh competing interests and maintain an even balance.'") (quoting, in part, United States Central Building Supply, Inc. v. Wilke, 685 F. Supp. 936, 938 (D. Md. 1988)); see also Carolina Water Serv., 367 S.C. at 153 n.2, 625 S.E.2d at 233 n.2. By contrast, Petitioners Hilton Head Regional and Hilton Head Imaging argue that the balancing test typically employed by courts when considering whether to issue an equitable stay is not appropriate here. They contend that because the automatic stay of § 1-23-600(G)(2) is statutory rather than equitable, the court must consider the statute as a whole in light of its intended purpose. Such an examination, they contend, shows that the General Assembly intended that the automatic stay of (G)(2) be lifted only in extraordinary circumstances, which, they argue, Southern MRI has not demonstrated here. Cf. Talley v. John-Mansville Sales Corp., 285 S.C. 117, 119 n.2, 328 S.E.2d 621, 623 n.2 (1985) (noting that remanding the case for entry of a stay could delay its resolution for years, and stressing that such a stay is proper only under the most exceptional circumstances).

The court agrees to some extent with both of these positions. In determining whether the stay should be lifted, the court must certainly consider and balance the respective harm to the parties. However, the court finds that the ordinary, garden variety "harm" that all permit or license applicants will undeniably but commonly suffer is alone insufficient to warrant lifting of the automatic stay. Lifting the stay based upon the normal, foreseeable delay, expense, and lost profits associated with an applicant's inability to continue with a project due to the operation of the automatic stay would contradict the legislative purpose of imposing one. Consequently, the court finds that a movant must show circumstances other than those generally suffered by prospective permittees or licensees to lift the stay. Moreover, the harm demonstrated by those circumstances must outweigh that which will be suffered by the other parties.

b. Application to Evidence Presented

Southern MRI asserts that it will suffer more harm from the stay than the Petitioners will suffer if it is lifted. In support of its motion, Southern MRI filed an affidavit of Chris Jenkins

[2] Naturally, these opposing parties disagree as to how the court should apply that balancing test based on the evidence presented.

PJG

averring that "[t]he prohibition against operating the MRI and CT modalities are causing significant harm to Southern MRI." (Jenkins Aff. ¶ 15.) Specifically, Southern MRI contends that if the stay is not lifted, "it will be forced to terminate its employees, as it will not be generating sufficient revenue to service its debt." (Id.) Additionally, it contends that "its referral relationships with the established referring physicians that have been cultivated since 1999 will be jeopardized or terminated." (Id. ¶ 16.) Moreover, "[i]t believes that there will be a significant detrimental impact on the patients that have been referred to Southern MRI in the past and will be referred to Southern MRI in the future." (Id.) Finally, Jenkins avers that "[t]he impact to Southern MRI, the referring physicians and the patients are significant and potentially non repairable if Southern MRI is not allowed to operate during the appeal." (Id. ¶ 17.) Attached to Jenkins's affidavit are letters from ten local physicians essentially stating that the inability to refer patients to Southern MRI during the pendency of this contested case will negatively impact their patients. The physician letters further state that, if the stay is not lifted, they will be "forced to look elsewhere for imaging services" and express concern that they "will not be able to find the timely and quality services that [Southern MRI is] prepare[d] to offer."

In further support of its motion, Southern MRI argues that, although it knowingly assumed the risk that the Department's decision to grant the N/A Determination could ultimately be determined to be erroneous, thus necessitating full certificate of need review for its project, Southern MRI could not have anticipated that the court would interpret the automatic stay provision of § 1-23-600(G)(2) to apply to N/A Determinations until the court's order of April 30, 2008. Because this novel issue had not yet been addressed by the ALC[3] when Southern MRI elected to proceed with implementing its project based upon the Department's N/A Determination, it argues that equity demands that the stay be lifted. Finally, it argues that, because Southern MRI will be unable to provide any MRI or CT services if the stay is not lifted, it may not be in a financial position to proceed with the project even if it ultimately prevails in the underlying contested case.

In response, the Petitioners make several points. First, they point out that Southern MRI's inability to provide MRI and CT services during the pendency of this matter is a result of

[3] The court notes that its April 30, 2008 decision has no precedential effect and is not binding on other administrative law judges. See Stephen P. Bates, *The Contested Case Before the ALJD, in* South Carolina Administrative Practice & Procedure 161, 211 (Randolph R. Lowell & Stephen P. Bates eds., 2004) ("The judges of the [ALC] are not bound by previous rulings of their peers.").

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its own actions. Southern MRI had an operable Siemens unit on Hilton Head Island, which it decommissioned in March 2008 during the pendency of this case. Hilton Head Regional and Hilton Head Imaging further point out that Jenkins stated in his deposition just a few days before his affidavit was filed in connection with this motion that Southern MRI decommissioned its Siemens unit at the same time the GE unit was being delivered for economic reasons, which created a lapse in service. Further, Jenkins stated in his deposition that the two technicians employed by Southern MRI are currently working forty hours per week, although not exclusively by performing imaging services.

The Petitioners also argue that lifting the stay will result in harm to the Petitioners. MRI at Belfair submitted an affidavit by its sole member, Dr. Albert Joseph Borelli, averring that lifting the stay would "cause substantial financial harm to MRI at Belfair." (Pet'r MRI at Belfair's Ex. 1 ¶ 10.) The basis for Dr. Borrelli's position is that the referring physician that utilizes MRI at Belfair the most provided Southern MRI with a letter of support, and further, that Southern MRI's advertising, which he contends is misleading, may also cause MRI at Belfair to lose patients. Dr. Borelli also asserts that Southern MRI's potential patients could be served at the other existing providers, including MRI at Belfair.

Thus, the harm that will apparently be suffered by the Petitioners if the stay is lifted is largely the same as that alleged by Southern MRI if the stay is not lifted—competitive disadvantage. Southern MRI also alleges general economic harm by virtue of not being able to generate sufficient revenue to service the debt it has incurred on the project and meet its payroll. Moreover, although it attempts to establish additional harm to its referring physicians and their patients due to the interruption in Southern MRI's service, the evidence shows that the local area has several MRI providers that can meet the needs of these physicians and patients; no evidence was presented that the other facilities do not currently have capacity to absorb that need during the pendency of this case.

The court finds that the economic harm alleged by Southern MRI alone would be insufficient to establish the unusual circumstances required to lift the automatic stay. Southern MRI has additionally established, however, that the entire contested case may become moot if it is not permitted to operate the services at issue during the pendency of this matter. The court notes that, while not applicable to this contested case, Rule 225(c)(2) of the South Carolina Appellate Court Rules provides two examples of when it may be appropriate to lift the automatic

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stay imposed by Rule 225(a), SCACR, which, like § 1-23-600(G)(2), generally stays orders of lower courts during the pendency of an appeal to the South Carolina Court of Appeals or Supreme Court. See ALC Rule 68 (allowing the ALC to apply the South Carolina Appellate Court Rules to resolve questions not addressed by the ALC Rules). Subsection (c)(2) provides, "In determining whether an order should issue pursuant to this Rule, the [court] should consider whether such an order is necessary to preserve jurisdiction of the appeal *or to prevent a contested issue from becoming moot.*" Id. Thus, our appellate court rules indicate that potential mootness of a contested issue may be sufficient to establish special harm warranting the lifting of the automatic stay.

The court observes that this situation of potential mootness results from Southern MRI's own decision to decommission its existing Siemens unit prior to the resolution of this controversy. However, it also notes that Southern MRI is not adding a new service to the marketplace; rather, it is replacing an existing service with better technology. The purpose of a stay is generally to preserve the status quo during the pendency of litigation. Melton v. Walker, 209 S.C. 330, 40 S.E.2d 161 (1946) ("The general rule is that the effect of a . . . stay is to suspend proceedings and preserve the status quo pending the determination of the appeal or proceeding in error.") (citing 4 C.J.S., Appeal and Error, §§ 626, 662). In this case, the status quo before litigation began was that Southern MRI was providing imaging services in Bluffton and on Hilton Head Island. Indisputably, the 1.5 MRI unit is superior to the 1.0 unit it was utilizing on the Island prior to the Siemens unit being decommissioned. Nonetheless, the situation that comes closest to preserving the status quo is for Southern MRI to continue to provide MRI services on the Island during the pendency of this case. The alternative is an effective prohibition on Southern MRI's providing such services on the Island, which does not reflect the status of the marketplace at the time of the filing of this contested case.

CONCLUSION

The court finds that due to the unique procedural posture of this case and because permitting Southern MRI to offer services during the pendency of this case more closely approximates the status quo ante, the stay should be lifted. The special harm demonstrated by Southern MRI of potentially being unable to go forward with its project if it is not permitted to

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operate during the pendency of this matter outweighs the potential competitive disadvantage to the Petitioners.[4] It is therefore

ORDERED that the Petitioners' motion to lift the automatic stay of § 1-23-600(G)(2) is GRANTED.

IT IS SO ORDERED.

PAIGE J. GOSSETT
Administrative Law Judge

May 22, 2008
Columbia, South Carolina

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, in the United States mail, postage paid, or in the Interagency Mail Service addressed to the party(ies) or their attorney(s).

This 28th day of May, 2008

By: Jennifer E. Wallace
Judicial Law Clerk

[4] The court further notes that the contested case hearing in this matter is currently scheduled to take place in approximately nine weeks. The court urges the parties to make every effort to ensure that the hearing is not delayed, as a continuance will be granted only for extreme circumstances.

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STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Sisters of Charity Providence Hospitals, Petitioner, vs. South Carolina Department of Health and Environmental Control and Lexington Health Services District, Inc. d/b/a Lexington Medical Center, Respondents.	Docket No.: 14-ALJ-07-0332-CC **AMENDED ORDER DENYING MOTION TO LIFT AUTOMATIC STAY**

This matter comes before the South Carolina Administrative Law Court (ALC or Court) pursuant to a Motion to Lift Automatic Stay filed on September 23, 2014 by Respondent Lexington Health Services District, Inc. d/b/a Lexington Medical Center (LMC) in response to the Court's Reconsideration Order and Orders Denying LMC's Motion to Dismiss, Granting Partial Summary Judgment in favor of Petitioner Sisters of Charity Providence Hospitals (Providence), and Enforcing Automatic Stay with respect to further activities relating to the Open Heart Suite (collectively, Orders). A hearing was held on this matter on October 22, 2014 at the ALC in Columbia, SC.

BACKGROUND

This matter was initially before the ALC pursuant to a Motion to Dismiss filed by LMC, a Motion for Summary Judgment filed by Providence, and a Motion to Enforce Automatic Stay filed by Providence (collectively, Motions). The underlying case arises from LMC's expansion of services by constructing a second open heart surgery unit (Open Heart Suite) and third catheterization laboratory (Cath Lab) without first obtaining a Certificate of Need (CON). On September 22, 2014, this Court issued its Orders on the Motions.

On October 2, 2014, LMC filed a Motion to Alter or Amend (Reconsider) the Court's Orders. On October 13, 2014, Providence filed its Memorandum in Opposition to Motion to Alter or Amend. On October 23, 2014, the Court issued a Reconsideration Order granting LMC's Motion in part and denying it in part. The Court also issued Amended Orders Denying

LMC' Motion to Dismiss and Granting Partial Summary Judgment in favor of Providence. Although it amended its Orders to clarify its position, the Court still held that it had subject matter jurisdiction and procedural jurisdiction to hear this matter as a contested case and that LMC must first obtain a CON before resuming operation of the Cath Lab. As to the Open Heart Suite, the Court ruled that it would allow further discovery but only as to the factual question of whether LMC made a capital expenditure for the Open Heart Suite. Finally, the Court issued an Order Enforcing Automatic Stay of LMC's activities with respect to further activities relating to the Open Heart Suite.[1] In light of the Court's rulings, on September 23, 2014, LMC filed a Motion to Lift Automatic Stay, which the Court now addresses.[2]

DISCUSSION

South Carolina Code Ann. § 1-23-600(H)(4) states that "[u]pon motion by any party [to lift automatic stay imposed pursuant to subsection (H)(2)], the [ALC] shall lift the stay for good cause shown or if no irreparable harm will occur, then the stay shall be lifted." At the outset, an implicit prerequisite to seeking to lift a stay is that the activity has been initially determined to be valid. Though LMC contends that its expansion of its Open Heart Suite was authorized by the Department, it has not established that it ever sought a CON, a non-applicability determination, or an exemption for these services. Moreover, the CON Act is, and has been, in effect throughout the events at issue, and DHEC has all the while been responsible for enforcing it. *See Amisub of S.C., Inc. v. S.C. Dep't of Health and Envtl. Ctrl.*, 407 S.C. 583, 757 S.E.2d 408 (2014), *reh'g denied* (May 22, 2014). Accordingly, LMC has not yet demonstrated lawful grounds to expand its Open Heart Suite. The activity of LMC thus cannot support a contention that a stay should be lifted for it to continue to provide its services, because there has been no underlying determination that those services are proper.

Good Cause

Whether there is good cause involves an evaluation of the facts of the specific case. *See Shapiro v. Massengill*, 661 A.2d 202, 211 (Md. Ct. Spec. App. 1995) ("The concept of 'just cause' does not lend itself to a mathematically precise definition. Indeed, '[t]here is no single

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[1] The Court saw no need to alter or amend its Order Enforcing Automatic Stay.

[2] The Court also held that the automatic stay imposed pursuant to S.C. Code § 1-23-600(H)(2) (Supp. 2013) was moot as to LMC's activities relating to the Cath Lab, in light of the Court's grant of summary judgment in favor of Providence on the Cath Lab issue.

definition of what constitutes good cause . . . .'") (quoting Stanley Mazeroff, *Maryland Employment Law* § 3.3(A), at 189 (1990)); *Peebles v. Moore*, 269 S.E.2d 694, 698 (N.C. Ct. App. 1980) ("What constitutes 'good cause' depends on the circumstances in a particular case. . . ."). Therefore, LMC must demonstrate that the circumstances of this case raise sufficient reasons to depart from the sound reasons for the existence of an automatic stay. *See Leventis v. Dep't of Health and Envtl. Control*, 340 S.C. 118, 530 S.E.2d 643 (Ct. App. 2000) (the burden of proof is upon the party asserting the affirmative of an issue).

LMC argues that good cause exists to lift the automatic stay imposed, pursuant to S.C. Code § 1-23-600(H)(4) (Supp. 2013), because the fundamental purpose of the automatic stay – to maintain the status quo – is not being served. LMC contends that because Providence filed its request for contested case review of the Department's decision concerning the Open Heart Suite months after it was in operation and LMC is using the Open Heart Suite on a daily basis, the stay must be lifted to maintain the status quo. The purpose of the automatic stay is indeed to preserve the status quo until a decision is rendered in a contested case. *See Graham v. Graham*, 301 S.C. 128, 130, 390 S.E.2d 469, 470 (Ct. App. 1990). However, an automatic stay arising in relation to a review of a new-licensing decision "stays all actions for which the license is a prerequisite." Section 1-23-600(H)(2). In this case, the remaining issue before this Court is whether a CON, which is a certificate and thus a "license" under Section 1-23-505, is a prerequisite for LMC's expansion of its existing services via its second Open Heart Suite. Therefore, the automatic stay is serving its fundamental purpose of maintaining the status quo by stopping the actions for which a CON is arguably prerequisite. *See Santee Cooper Resort, Inc. v. S .C. Pub. Serv. Comm'n,* 298 S.C. 179, 184, 379 S.E.2d 119, 122 (1989) ("[A] stay is a stopping."). In sum, LMC's actions do not justify being elevated to the level of "status quo."

LMC argues that the Court should consider the timing of the stay and the impairment resulting from the imposition of a stay. Specifically, LMC argues that "[b]ecause of the urgent nature of the procedures performed in the surgery suite, requiring LMC to discontinue its existing business operations will adversely impact LMC's patients because they will have to be rescheduled and their care delayed." However, the CON Act through the State Health Plan sets forth the standards by which the need for expansion of services is determined; determinations of need are based upon a factual analysis taking into consideration those regulations. Here, LMC's

proclaimed urgency derives not from a lawful determination of need for the services themselves but from the scheduling of services for an Open Heart Suite in which the propriety of those services has yet to be established. LMC thus wishes to begin a service for which there does not appear to have been a formal determination of its lawfulness (via a CON, non-applicability determination, or an exemption), and contends that it is urgent to maintain that activity because it has established utilization of that service. That reasoning is simply unsound.

Additionally, in weighing the effect of the stay upon the parties, it is notable that LMC took a risk when it decided to proceed without a CON. The Department even informed LMC of the risk of proceeding with its expansion of services without a CON. Therefore, since LMC was aware of the potential for an adverse ruling regarding the need for a CON, it should have anticipated the need to make arrangements for these patients. Moreover, if LMC's position was adopted, the automatic stay would be turned on its head by essentially adopting a presumptive lift of stay in all CON matters where patients are receiving "urgent" treatment. This Court addressed a similar argument in *MRI at Belfair, LLC, v. S.C. Dep't of Health and Envtl. Control*, Docket No. 07-ALJ-07-0538-CC (S.C. Admin. Law J. Div. May 22, 2008) by stating the following:

> Lifting the stay based upon the normal, foreseeable delay, expense, and lost profits associated with an applicant's inability to continue with a project due to the operation of the automatic stay would contradict the legislative purpose of imposing one. Consequently, the court finds that a movant must show circumstances other than those generally suffered by prospective permittees or licensees to lift the stay. Moreover, the harm demonstrated by those circumstances must outweigh that which will be suffered by the other parties.

The Court likewise finds any harm suffered by LMC to be foreseeable and of the sort generally suffered by prospective licensees.[3]

Furthermore, according to Standard 5(A) on page VIII-19 of the State Health Plan, with two exceptions that are of no consequence in the instant case, "[n]ew open heart surgery services shall be approved only if the following conditions are met: A. Each existing unit in the service area . . . is performing an annual minimum of 350 open heart surgery procedures per open heart surgery unit for adult services (70 percent of functional capacity). . . ." According to LMC's

[3] Though the standard for lifting the automatic stay under Section 1-23-600 was amended after *MRI at Belfair, LLC*, the inquiry above is still a relevant consideration as to the question of good cause.

own affiant, Tod Augsburger, LMC performed only 212 open heart surgery procedures for fiscal year ending September 30, 2013, 264 procedures for the fiscal year during which the affidavit was sworn (August 11, 2014), and expects to perform 300 by September 30, 2014. Thus, should a CON for an additional open heart surgery unit under the State Health Plan be required in this case, LMC would not even qualify for it because it would not meet the 350-procedure threshold to justify a substantial expansion of existing open heart surgery services.[4]

Weighing the foreseeable and minimal harm against other factors, such as the harm that unauthorized services would have on South Carolina's citizens and on other service providers in the Service Area, the Court finds no good cause to lift the automatic stay.[5] Unauthorized services, which are violations of the law, simply cannot serve as the foundation for good cause.

Irreparable Harm

Like the term "good cause," the term "irreparable harm" is not defined in Section 1-23-600. "What constitutes irreparable harm is generally a factual determination made after considering the particular circumstances of a case." *School Comm. of City of Pawtucket v. Pawtucket Teachers' Alliance Local No. 930*, 365 A.2d 499, 502 (R.I. 1976). Whether a wrong is irreparable is a question that is "not decided by narrow and artificial rules." *Peek v. Spartanburg Reg'l Healthcare Sys.*, 367 S.C. 450, 455, 626 S.E.2d 34, 36 (Ct. App. 2005) (quoting *Kirk v. Clark*, 191 S.C. 205, 211, 4 S.E.2d 13, 16 (1939)). Nevertheless, it has been

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[4] Standard 5 also contains a section B, requiring a projection of a minimum of 200 annual open heart surgery procedures per open heart surgery unit within three years after initiation. Both this section and section A above must be satisfied.

[5] LMC attempts to analogize this case to *Amisub of S.C. Inc. d/b/a Piedmont Med. Ctr. v. S.C. Dept. of Health and Envtl. Control*, Docket No. 08-ALJ-07-0063-CC (July 23, 2008), in which the ALC found that expenditure of a large sum of money to complete a construction project was sufficient to lift the stay and allow respondents to proceed with construction. However, that case is distinguishable in that the lifting of the stay in that case did not allow potentially unauthorized service to patients. The Court in that case also noted that the challenged party's "actions in proceeding to construct the building without obtaining legal authorization from the ALC does not appear to be based upon a disregard for the law or a cavalier attitude to proceed at its own risk." Nevertheless, this Court finds, as discussed above and in its previous Orders, that LMC proceeded at its own risk, even being warned on several occasions by the Department that there was a risk of an adverse opinion – that the law, which LMC had access to, could still be in effect (as the Supreme Court would later confirm in *Amisub*).

Moreover, LMC asserts that this Court in *Piedmont, supra* rejected the balancing test from *MRI at Belfair, supra*. Though this Court did say that it "d[id] not find that the determination of whether to lift a stay should be made following a strict 'balancing of the harms test,'" it also said that "[n]evertheless, I do not find the standard used in determining whether to grant an equitable stay to be off base in these determinations. . . . Here, the decision should . . . be made by weighing or considering all relevant factors that reflect upon whether the stay should or should not be lifted."

held that, to be irreparable, the harm must be "neither remote nor speculative, but actual and imminent." *Gracepointe Church v. Jenkins*, No. 2:06-CV-1463-DCN, 2006 WL 1663798 (D.S.C. June 8, 2006) (quoting *Direx Israel, Ltd. v. Breakthrough Med. Corp.*, 952 F.2d 802, 812 (4th Cir. 1991)); *accord Forest City Daly Housing, Inc. v. Town of North Hempstead*, 175 F.3d 144 (2d Cir. 1999). Moreover, while some courts have held that the injury must be "great" and not "merely serious or substantial,"[6] others have held that "when the threatened harm is more than *de minimis*, it is not so much the magnitude but the irreparability that counts."[7]

In determining irreparable harm in CON contested cases, the Court should consider the purposes of the CON Act. These purposes are as follows:

> promote cost containment, prevent unnecessary duplication of health care facilities and services, guide the establishment of health facilities and services which will best serve public needs, and ensure that high quality services are provided in health facilities in this State

Therefore, the determination in this case should be made considering those factors.

LMC contends that its project did not waste healthcare dollars because it used existing space and equipment. LMC further asserts that "[t]he surgery suite provides high quality, necessary services that serve the public needs by allowing LMC to more efficiently provide care to its patients and avoid inconvenient scheduling of procedures." However the satisfaction of these purposes cannot be determined because no CON was ever issued. In fact, LMC circumvented the normal vetting process of a CON by failing to seek a non-applicability determination or an exemption. Without the benefit of the facts to be gained by that review, LMC asserts that there will be no irreparable harm. Furthermore, the opposing affidavits suggest that LMC's services could result in unnecessary duplication, as well as underutilization among the other units of existing providers in the Service Area – underutilization that the State Health Plan seeks to avoid. Condoning such medical services, even temporarily, is "in direct derogation" of the CON Act's purpose of promoting quality healthcare to the citizens of South Carolina. *See Dema v. Tenet Phys. Servs.-Hilton Head, Inc.*, 383 S.C. 115, 124, 678 S.E.2d 430, 435 (2009).

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[6] *Dominion Video Satellite, Inc. v. Echostar Satellite Corp.*, 356 F.3d 1256, 1262 (10th Cir. 2004) (quoting *Prairie Band of Potawatomi Indians v. Pierce*, 253 F.3d 1234, 1250 (10th Cir. 2001)).

[7] *Enterprise Intern., Inc. v. Corporacion Estatal Petrolera Ecuatoriana*, 762 F.2d 464, 472 (5th Cir. 1985) (quoting *Canal Auth. v. Callaway*, 489 F.2d 567, 575 (5th Cir. 1974)).

LMC also contends that Providence has not been harmed by LMC's Open Heart Suite and will not be harmed by lifting the automatic stay. It argues that any harm to Providence is "purely speculative," and that "Providence suffers no loss of patients or any other harms from the operation of the surgery suite during the pendency of this action." The basis for LMC's position is two-fold. The first basis is an affidavit from Jeffrey A. Travis, M.D., which mentions the inconvenience of having one cardiovascular surgical suite – that it required "h[im], the other cardiovascular surgeon, and the clinical staff to perform surgeries later into the night and on weekends." It also states that "[b]ecause of the significant health risks and stresses associated with transfer and patient preferences, patients awaiting open heart surgery generally are not transferred to other facilities." (Resp.'s Exhibit "B," ¶ 10). The second basis is the fact that Providence was unaware of LMC's Open Heart Suite, from which LMC infers that had Providence been "suffering irreparable harm from the operation of the surgery suite, it would certainly realized it sooner."

As to the first basis, the CON Act establishes the procedure to insure quality health care in this State. As explained above, the Act requires a determination of need for certain services before those services may be offered to the public. It is undisputed that the threshold exists to insure that providers are performing a sufficient number of procedures to maintain proficiency. Here, should the Court find that a CON is required, the number of heart surgery procedures currently being performed at LMC are below the 350-procedure threshold required to obtain a CON to expand an existing health service. Therefore, under the policies of the State Health plan, there is a risk of harm to other facilities within the Service Area in approving an open heart suite under the facts of this case. Also, LMC's argument that patients awaiting open heart surgery are generally not transferred to other facilities is questionable. According to the affidavit of Edward M. Leppard, M.D., who has practiced for thirty (30) years at Providence Hospital, "only a small percentage of open heart surgery is performed on an 'emergent' basis," meaning that "the procedure must be done without delay"; and "transferring a patient for open heart surgery is common." Thus, even if LMC were to perform enough open-heart procedures to warrant a second Open Heart Suite pursuant to the State Health Plan, LMC could take patients away from, i.e. irreparably harm, other providers in the Service Area, which is what the CON Act and, by extension, the State Health Plan aim to avoid. Therefore, LMC failed to establish that there is no

risk of irreparable harm to other facilities within the Service Area if the automatic stay was lifted.

Moreover, the inconvenience of having one cardiovascular surgical suite is not a basis for irreparable harm but rather a basis for good cause. In other words, even if it was inconvenient to transfer patients, that fact does not establish that other hospitals would not be harmed by LMC utilization of a second Open Heart Suite. Further, even if the Court were to consider this argument under the good cause analysis, LMC does not sufficiently explain why its existing Open Heart Suite would not accommodate the needs of its patients. LMC's argument that there may be harm to the interest of its patients is founded upon its own view of need. And again, the procedures currently being performed at LMC are below the 350 procedure threshold required to obtain a CON to expand an existing health service. Therefore, it is questionable whether a need exists or whether the services are lawful.

As to the second basis, the Court is not persuaded by LMC's argument. The argument is based upon the premise that if the harm is not noticed, it does not exist. Following that assumption, no harm would ever occur to a person or entity unless it is noticed. Thus, stealing funds from a wealthy individual, for example, would not cause irreparable harm as long as the wealthy individual does not realize that someone is stealing from him/her. I find that LMC's faulty reasoning and the inference it begets fail to establish a lack of harm. There is simply insufficient evidence for this Court to leap to the conclusion that because the loss of patients may not have been noticed, there was no harm from that loss.

Moreover, LMC has not even established that no harm was noticed by Providence.[8] Rather, LMC presumes that Providence did not notice any harm based upon its interpretation of what Providence would have done had it been harmed. That reasoning is based upon speculation, which is an insufficient basis for this Court to conclude that harm has not occurred, much less whether that harm would not be irreparable. I therefore find that that LMC has failed to establish that there would be no irreparable harm to Providence, other providers, and/or the citizens of South Carolina by lifting the automatic stay and allowing it to continue providing unauthorized health services.

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[8] Notably, it is LMC's burden to establish that no other providers in the service area, not just Providence, would be harmed. Its argument in that regard is based purely upon conjecture.

ORDER

IT IS THEREFORE ORDERED that LMC's Motion to Lift Automatic Stay is **DENIED**. LMC must continue to cease and desist from any further activities relating to the Open Heart Suite pending a final decision on the issue of whether a CON was required prior to LMC's engagement of those activities.

AND IT IS SO ORDERED.

Ralph King Anderson, III
Chief Administrative Law Judge

December 1, 2014
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, E. Harvin Belser Fair, hereby certify that I have this date served this Order upon all parties to this cause by depositing a copy hereof in the United States mail, postage paid, in the Interagency Mail Service, or by electronic mail, to the address provided by the party(ies) and/or their attorney(s).

E. Harvin Belser Fair
Judicial Law Clerk

December 1, 2014
Columbia, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. 16-ALJ-07-0082-CC **PETITIONER A. O. SMITH CORPORATION'S RESPONSE IN OPPOSITION TO TOWN OF MCBEE'S MOTION TO DISMSS REQUEST FOR CONTESTED CASE**

Pursuant to Rule 19 of the South Carolina Rules of Procedure for the Administrative Law Court, Petitioner A. O. Smith Corporation ("A.O. Smith"), respectfully submits this response in opposition to Respondent Town of McBee's Motion to Dismiss Request for Contested Case ("Motion"). For the reasons explained below, the Town's Motion should be denied because the Final Approvals to Operate at issue in this contested case are final agency decisions giving rise to a contested case pursuant to S.C. CODE ANN. § 44-1-60 and the South Carolina Administrative Procedures Act, S.C. CODE ANN. §§ 1-23-10 et seq. ("APA"), and A.O. Smith timely filed its Request for Contested Case Hearing challenging the Final Approvals.

BACKGROUND

On January 12, 2016, DHEC issued to the Town the Final Approval to Place into Operation for Well No. 1 & 2 GAC Contactor Addition (Construction Permit No. 29779-WS) ("GAC Approval") and the Final Approval to Place into Operation for McBee Water System Well No. 2 (Construction Permit No. 28475-WS) ("Well No. 2 Approval") (collectively "Final Approvals"). The Final Approvals each contain the following identical "Special Conditions":

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This Final Approval to operate is being conditionally approved. The Department has concerns about the water system's capacity if only Well No. 1 and Well No. 2 are the sole sources for water supply. The Town of McBee's Public Water System Operating Permit, Permit Number 1310004, contains the following language:

B. System Specific Conditions

The Town of Mc Bee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quality and quality to ensure compliance.

The Department recommends that the Town of McBee investigate this capacity issue to demonstrate sufficient capacity exists before utilizing Well No. 1 and Well No. 2 as the primary supply of water.

The Final Approvals are clearly stated to be "conditionally approved" and acknowledge that the Town has not demonstrated the Town's two wells are sufficient to operate independent of the Alligator system, which is currently its sole source of water supply for the Town's system. Yet, the Final Approvals appear to authorize the Town to operate these two wells as the sole source of its water supply without satisfying the regulatory requirements for such independent operation.

On January 27, 2016, A.O. Smith requested a final review of the Final Approvals by the South Carolina Board of Health and Environmental Control ("Board"). By letter dated February

17, 2016, the Clerk of the Board notified A.O. Smith of the Board's decision not to conduct a final review of the Final Approvals. On March 15, 2016, A.O. Smith filed and served its Request for a contested case hearing within the thirty (30) days allowed under Rule 11 of the South Carolina Rules of Procedure for the Administrative Law Court and S.C. CODE ANN. § 44-1-60(G).

A.O. Smith further incorporates the statement of facts and procedural history in the "Background" section of its Response in Opposition to Town of McBee's Motion for Relief from Stay filed contemporaneously herewith.

ARGUMENT AND CITATION OF AUTHORITY

Contrary to the Town's assertions, the Final Approvals are final agency decisions giving rise to a contested case pursuant to S.C. CODE ANN. § 44-1-60. The Final Approvals were issued by DHEC to meet the legal requirements of S.C. CODE ANN. § 44-55-40(C) and S.C. CODE REGS. 61-58.1(K). The fact that other approvals regarding the operation of the Town's water system were issued prior to the Final Approvals has no bearing on A.O. Smith's right to challenge the Final Approvals. In particular, DHEC issued the Final Approvals as "conditionally approved" and imposed certain Special Conditions in the Final Approvals regarding the operation of the Town's water system. Accordingly, A.O. Smith has timely filed a request for contested case to challenge the Final Approvals, DHEC's authority to "conditionally approve" the operation of the facilities, and the regulatory bases for the "Special Conditions" imposed in the Final Approvals. The Town's Motion should therefore be denied.

A. The Final Approvals are a final agency decision under S.C. CODE ANN. § 44-1-60(F).

The Town argues that this contested case should be dismissed because the Final Approvals "are nothing more than acknowledgments that the Town of McBee satisfied conditions contained in the previously-issued permits." (Town's Motion, p. 4). As a

preliminary matter, the Town attempts to characterize the Final Approvals as a perfunctory "rubber stamp" from the Department. However, the Final Approvals clearly cannot be characterized as perfunctory or merely administrative because the Final Approvals were issued as "conditionally approved" and impose "Special Conditions." Moreover, under the applicable statutes and regulations, the Final Approvals—even without the conditional approval and Special Conditions—are unquestionably a final agency decision subject to a contested case pursuant to S.C. CODE ANN. § 44-1-60 and the APA.

S.C. CODE ANN. § 44-1-60 sets forth the procedures for challenging a DHEC decision "involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other actions of the department which may give rise to a contested case." S.C. CODE ANN. § 44-1-60(A). For purposes of a contested case before this Court, the APA defines license as "the whole or part of any agency permit, franchise, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes." S.C. CODE ANN. § 1-23-310(4); S.C. CODE ANN. § 1-23-505(4) (emphasis added). The Final Approvals are unquestionably a "form of permission required by law." Section 44-55-40 of the State Safe Drinking Water Act provides that DHEC's approval is required prior to placing a new or modified facility into operation: "Upon the completion of construction, modification, or extension to a public water system, arrangements must be made for a final inspection and approval before operation as prescribed by regulation. No new facility may be operated prior to approval by the department." S.C. CODE ANN. § 44-55-40(C). Section 61-58.1 of the State Primary Drinking Water Regulation governs "Construction and Operation Permits," and provides that "[n]ewly-constructed facilities shall not be placed into operation until written approval is issued by the Department, except where it is allowed by a general

construction permit." S.C. CODE REGS. § 61-58.1(K)(1). Section 61-58.1 further provides in relevant part: "Failure to obtain written approval from the Department prior to placing any newly constructed drinking water facilities into operation is a violation of the Act (Code Section 44-55-40) and is subject to an enforcement action by the Department." S.C. CODE REGS. § 61-58.1(K)(2). Accordingly, the Final Approvals are permissions to operate which are required by the State Safe Drinking Water Act and the State Primary Drinking Water Regulation.

Additionally, the South Carolina Supreme Court recently examined the question of what constitutes a staff decision giving rise to a contested case. In *Amisub of South Carolina, Inc. v. South Carolina Department of Health and Environmental Control*, the Supreme Court held that there was no "staff decision" under S.C. CODE ANN. § 44-1-60 because the exemption at issue in that case was not one which required written proof of the acknowledgement of the exemption from DHEC. 403 S.C. 576, 596, 743 S.E.2d 786, 797 (2013). The Court explained: "'Since there was no legal duty owed by DHEC to issue a staff decision in this matter, which is the trigger giving rise to a contested case, there was no corresponding obligation that Piedmont be afforded a contested case hearing before the ALC." *Id.* In contrast, in this case the Final Approvals are written approvals by DHEC required under both the State Safe Drinking Water Act and the State Primary Drinking Water Regulation. Therefore, the Final Approvals were issued pursuant to a "legal duty owed by DHEC" and are therefore a staff decision under S.C. CODE ANN. § 44-1-60.

S.C. CODE ANN. § 44-1-60 provides that "[t]he staff decision becomes the final agency decision fifteen calendar days after notice of the staff decision has been mailed to the applicant, unless a written request for final review accompanied by a filing fee is filed with the department by the applicant, permittee, licensee, or affected person." S.C. CODE ANN. § 44-1-60(E)(2); *see*

also S.C. Coastal Conservation League v. S.C. Dep't of Health & Envtl. Control, 390 S.C. 418, 427, 702 S.E.2d 246 (2010) (finding that "[t]he clear and unambiguous language in the statute provides that the staff decision becomes final "fifteen days after notice of the department decision has been mailed . . ."). In this case, the staff issued the Final Approvals to the Town on January 12, 2016. A.O. Smith requested a final review of the Final Approvals by the Board on January 27, 2106. By letter dated February 17, 2016, the Clerk of the Board notified A.O. Smith of the Board's decision not to conduct a final review of the Final Approvals. "If the board declines in writing to schedule a final review conference or if a final review conference is not conducted within sixty calendar days, the staff decision becomes the final agency decision, and an applicant, permittee, licensee, or affected person requests pursuant to subsection (G) a contested case hearing before the Administrative Law Court." S.C. CODE ANN. § 44-1-60 (F). Therefore, the Final Approvals are final agency decisions giving rise to a contested case before this Court for which a timely request for a contested case hearing was filed.

B. This Court has subject matter jurisdiction over the Final Approvals and the terms and conditions therein.

The Town asserts the Court lacks jurisdiction in this matter because "A.O. Smith is attempting to challenge steps in the administrative process that predate the November 2012 and June 2014 permits." (Town's Motion, p. 4). Contrary to the Town's assertion, all of the grounds raised by A.O. Smith relate to the Final Approvals, DHEC's regulatory authority to "conditionally approve" the operation of the facilities, and the Special Conditions incorporated into the Final Approvals by DHEC. As such, A.O. Smith is entitled to raise such grounds in its challenge to the Final Approvals as the DHEC staff clearly considered the applicability of the regulatory requirements for those grounds in its decision to issue the Final Approvals. Indeed,

the "Special Conditions" section of the Final Approvals expressly addresses the regulatory bases for A.O. Smith's grounds for appeal of the Final Approvals.

The Final Approvals are clearly stated to be "conditionally approved" and acknowledge that the Town has not adequately demonstrated the Town's two wells are sufficient to operate independent of the Alligator system. The Special Conditions of the Final Approvals includes a verbatim recital of Section 61-58.2(B)(1)(b) of the State Primary Drinking Water Regulation, which provides as follows:

> The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis.

S.C. CODE REG. § 61-58.2(B)(1)(b). Although the terms of the Final Approvals clearly state that the Town has failed to demonstrate compliance with this regulatory requirement, the Special Conditions further acknowledge that the Town has submitted to the Department a preliminary engineering report ("PER") which contemplates the use of Well No. 1 and Well No. 2 as the sole source for the McBee water system. Despite the Town's failure to meet this regulatory requirement for independent operation of its water system, the Department in the Special Conditions merely "recommends that the Town of McBee investigate this capacity issue to demonstrate sufficient capacity exists before utilizing Well No. 1 and Well No. 2 as the primary supply of water." The fact that compliance with 61-58.2(B)(1)(b) could or should have been considered by the DHEC staff in prior decisions related to the Town's water system does not preclude the Court from ruling on the Town's failure to comply with that regulatory requirement in this contested case. The requirements of Section 61-58.2(B)(1)(b) are recited in and made part

of the Special Conditions in the Final Approvals and are therefore squarely before this Court in this matter.

CONCLUSION

For the reasons stated herein, A. O. Smith respectfully requests that the Court dismiss Respondent Town of McBee's Motion to Dismiss Request for Contested Case.

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Attorneys for Petitioner A.O. Smith Corporation

April 5, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. 16-ALJ-07-0082-CC **CERTIFICATE OF SERVICE**

This is to certify that **Petitioner A.O. Smith Corporation's Response in Opposition to Town of McBee's Motion to Dismiss Request for Contested Case and Petitioner A.O. Smith Corporation's Response in Opposition to Town of McBee's Motion for Relief from Stay** have been served on the following counsel of record by placing the same in the United States mail, first class postage prepaid, addressed to the following as shown below this 5th day of April, 2016:

Belton T. Zeigler, Esquire
M. Todd Carroll, Esquire
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FILED
APR 05 2016
SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
BEFORE THE ADMINISTRATIVE LAW COURT

A.O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	)	Docket No. 16-ALJ-07-0082-CC REPLY IN SUPPORT OF THE TOWN OF MCBEE'S MOTION TO DISMISS REQUEST FOR CONTESTED CASE

In its opposition memorandum, A.O. Smith essentially concedes the untimeliness of its present request for a contested case hearing. A.O. Smith has not challenged anything about the "Final Approvals" that was not contained in DHEC's initial permitting decision. The agency issued that initial decision in June 2011. Under the statutory scheme for reviewing DHEC permitting matters, A.O. Smith had fifteen days after DHEC issued that permit to request final review by the agency itself. S.C. Code Ann. § 44-1-60(E)(2). It did not seek any such review, though, until January 2016—over four and a half years too late.

In the interim, the Town of McBee has invested hundreds of thousands of dollars in reliance on the final and unappealable status of that permitting decision. Accordingly, it is now far too late for A.O. Smith to seek review of the agency's decision. This case should be dismissed accordingly.

ARGUMENT

In opposing dismissal of its request for a contested case, A.O. Smith repeatedly argues that its request is timely because it is challenging various aspects of the "Special Conditions" that are contained in the agency's Final Approvals. In fact, A.O. Smith summarizes its request for a

contested case hearing in several places as an attempt to challenge "the Special Conditions incorporated into the Final Approvals." (A.O. Smith's Opp'n Mem. at 3, 6, 7–8.) But these "special conditions" are not new to the Final Approvals. Instead, DHEC placed these "special conditions" in the Public Water System Operating Permit that it issued to the Town of McBee on ***June 14, 2011***.

In fact, the exact same language in the Final Approvals on which A.O. Smith has based its request for a contested case hearing is contained in the 2011 Permit. (*Compare* Ex. A, Public Water System Operating Permit 1310004, at 3 (June 14, 2011) (placing certain "System Specific Conditions" on the Town of McBee's water system), *with* Ex. B, Final Approvals to Place into Operation, at 1 (Jan. 12, 2016) (transcribing those exact same "System Specific Conditions" into the agency's Final Approvals of the Town's water system).) Accordingly, all of the issues that A.O. Smith challenges in its Request for Contested Case Hearing relate to "special conditions" that DHEC placed on the Town of McBee almost five years before A.O. Smith sought this Court's review. (Request for Contested Case Hr'g at 4–5 (Mar. 15, 2016).)

The logic of the permitting process is clear. When a permit is issued, and the time to appeal that permit or any related permits has passed, the permittee may undertake to build the thing that was permitted with some assurance that its investment is not in jeopardy, at least concerning the issues that were decided in that permit. When construction is complete, DHEC grants a final authorization, which certifies that the thing built corresponds to the permit granted. The final authorization does not reopen the matters decided in the earlier permit. If the law were otherwise, then the issuance of the permit itself would have no practical meaning, as the permittee would have no assurances on which to it could make a reliable investment in the permitted facility. That is not the logic or intent of the regulatory process.

Accordingly, the Administrative Law Court has ruled that parties may not use a recent agency action that incorporates a prior agency decision as a vehicle to reach backwards in time to challenge the original agency decision. For instance, in *Hubbard v. S.C. DHEC*, Docket No. 07-ALJ-07-0594-CC, 2008 SC ALJ LEXIS 85 (S.C. Admin. Law Ct. May 2, 2008), the petitioners waited until a tattoo parlor engaged in the license-renewal process to challenge DHEC's original decision to grant a license to the tattoo parlor one year earlier. This Court rejected their attempt to bootstrap an earlier DHEC licensing decision into a subsequent proceeding and held that the "Petitioners failed to invoke the Court's jurisdiction by timely requesting a contested case hearing with regard to the initial licensing" decision by DHEC. *Id.* at *15–19. The same outcome should result here.

If A.O. Smith truly wanted to challenge any of these "special conditions" or the manner in which DHEC administered its regulations, A.O. Smith was required to raise its objections by first requesting a "final review" of DHEC's decision no later than June 29, 2011—fifteen days after the agency issued to the Town an operating permit containing the "special conditions." S.C. Code Ann. § 44-1-60(E)(2). But no such request for final review was made until January 27, 2016.

Accordingly, A.O. Smith is time-barred from seeking this Court's review of DHEC's actions here. The Court should dismiss this case as a result. *See, e.g.*, *Hill v. S.C. DHEC*, Docket No. 10-ALJ-07-0625-CC, 2010 SC ENV LEXIS 71, at *7–9 (S.C. Admin. Law Ct. Dec. 9, 2010) (dismissing as untimely a request for contested case hearing regarding a decision by DHEC).

CONCLUSION

Because A.O. Smith's Request for Contested Case Hearing does not raise any issues that are unique to the Final Approvals, but instead only attempts to challenge DHEC actions that date back to June 2011, its request is untimely and should be dismissed.

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

By: _____

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Attorneys for the Town of McBee

April 15, 2016
Columbia, South Carolina

Exhibit A

Town of McBee's Public Water System
Operating Permit 1310004 (issued by DHEC
on June 14, 2011)

STATE OF SOUTH CAROLINA

Public Water System
OPERATING PERMIT

Issued in accordance with the provisions of the State Safe Drinking Water Act (SDWA) (S C Code Ann § 44-55-10 et seq., 1976) and the State Primary Drinking Water Regulations (SPDWR) (R.61-58)

This Permit is Issued to: *TOWN OF MCBEE*
CONTACT: JOHN CAMPOLONG, MAYOR

For the Operation of a Public Water System Serving: *TOWN OF MCBEE*

County: *Chesterfield*

Public Water System Name: *TOWN OF MCBEE*

Permit Number: *1310004*

Date of Issuance: *June 14, 2011*

Jeffrey P. deBessonet, P.E., Director
Water Facilities Permitting Division

D H E C
PROMOTE PROTECT PROSPER
South Carolina Department of Health and Environmental Control

I. DESCRIPTION OF WATER SYSTEM

A. **System Type:** *Community*

B. **Distribution System Classification:** *Group III, Distribution Operator Grade "C", or as otherwise designated by the South Carolina Department of Labor, Licensing, and Regulation, Environmental Certification Board*

C. **Maximum Number of Allowable Taps:** *N/A*

D. **Reliable System Capacity:** *309,600 gallons per day, based upon the meter capacity*

E. **Surface Water Treatment Facilities:** *None*

F. **Groundwater Sources/Treatment Facilities:**

Plant Name	Plant ID	Total Capacity (MGD)	Treatments Applied
McBee Plant #1*	B13012	UNKNOWN	PH ADJ (LIME), GASEOUS CHLORINE

Treatment Facility Classification: *Group II, Treatment Operator Grade D, or as otherwise designated by the South Carolina Department of Labor, Licensing, and Regulation, Environmental Certification Board*

Well Name	Latitude/Longitude	Well ID	Yield (gpm)	Capacity (gpd)	Treatment
Juniper Ave & 6th Street*	Lat 34.4675000 Lon -80.258056	G13177	600	576000	TREATMENT APPLIED AT PLANT

**Well and treatment plant are offline due to EDB detection, and not included in the reliable system capacity analysis.*

G. **Master Meter Connections:**

Public Water System	DHEC System No.	Location	Reliable Capacity (mgd)
Alligator Rural Water and Sewer Company W13101	1320004	UNKNOWN	0.3096

H. **Emergency Sources of Water:** *See Section I.G*

I. **Distribution Treatment Facilities:** *N/A*

J. **Storage Capacity:**

Type of Storage	Total Capacity
Elevated (million gallons)	0.325
Ground (million gallons)	0
Pressure (thousand gallons)	0

II. SPECIAL CONDITIONS

A. Last Sanitary Survey Rating and Business Plan Requirements

1. The overall rating of the sanitary survey which was conducted by the Department as part of the Alligator Rural Water and Sewer Company, Inc. system on August 26, 2010, prior to the issuance of this operating permit was "Satisfactory". However, should the Town's water system receive an overall rating of "Unsatisfactory" on any future sanitary survey, the Permittee shall submit a business plan to the Department within two (2) months following the issuance of the unsatisfactory rating. Note that Alligator Rural Water and Sewer Company, Inc. was the operator of record during the year leading up to this survey, and the survey result reflects the level of service provided.
2. A business plan is defined in the SPDWR as a document consisting of three (3) sub-plans, a facilities plan a management plan, and a financial plan which is intended to show how a water system will be self-sustaining and have the commitment and the financial, managerial and technical capability to consistently comply with the SDWA and the SPDWR.
3. The definitions of a facilities plan, a management plan, and a financial plan may be found in the SPDWR.
4. The business plan shall include a schedule for achieving compliance with the SDWA and the SPDWR. Once the compliance schedule is approved by the Department, it shall be considered a part of the Operating Permit.

B. System Specific Conditions

The Town of McBee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quantity and quality to ensure compliance.

In the event the Town does not meet the capacity requirements listed above, they are required to submit a Corrective Action Plan to the Department within two (2) months of being notified of the deficiency. The Corrective Action Plan shall include a schedule for achieving compliance with the SDWA and the SPDWR. Once the compliance schedule is approved by the Department, it shall be considered a part of the Operating Permit.

III. GENERAL REQUIREMENTS

A. Duty to Comply

The Permittee shall comply with all applicable portions of the State Safe Drinking Water Act (SDWA) and the State Primary Drinking Water Regulations (SPDWR) to include all conditions and requirements of this permit. Failure to comply with any portion of this permit constitutes a violation of the SDWA and is grounds for enforcement action

B. Permit Revocation

In accordance with SC Code Ann § 44-55-120 the Department may revoke this Operating Permit for failure to demonstrate the ability to continue to comply with the SDWA.

C. Maximum Allowable Taps

The number of taps served by the water system shall not exceed the maximum allowable taps specified in Section I of this Operating Permit.

D. Permit Modification

1. The Department may modify this Operating Permit at any time to include all newly promulgated requirements of the SDWA or the SPDWR which are applicable to the public water system, to address requirements necessary to ensure compliance with the SDWA and SPDWR, and to provide updated information as a result of any future permitted construction

2. The Permittee may request a modification of the Operating Permit at any time with adequate justification.

3. Permit modification will be issued in accordance with R.61-58.1(O)(3)

E. Transfer of Operating Permit

This Operating Permit is non-transferable, except with prior approval of the Department. To obtain Department approval of the transfer of this Operating Permit, the Permittee shall submit written notification to the Department at least thirty (30) days in advance of the proposed transfer. This notification shall include an Operating Permit application form which has been completed by the proposed new owner of the water system. The Department may request that the proposed new owner submit a business plan which shows how the system will be managed to insure its long term viability. If the Department approves the transfer, a new Operating Permit will be issued to the new owner of the system in accordance with R.61-58.1(O)(3)

F. Annual Fee

1. The Permittee shall remit payment of the annual fee to the Department within thirty (30) days of the billing date.

2. The Department **will not** conduct compliance monitoring if the fee remains unpaid at the end of ninety (90) days after the billing date.

G. Construction Permits

An application for a Water Supply Construction Permit shall be made to, and a Water Supply Construction Permit obtained from, the Department before the system can be modified or expanded

H. Operation and Maintenance

The Permittee shall comply with the operation and maintenance requirements of R.61-58.7.

I. Inspection and Entry

Duly authorized agents of the Department of Health and Environmental Control may enter upon any premises and into any buildings or institutions for the purposes of inspection as provided for or required by State laws or regulations of the Department pursuant to such laws, but the privacy of no person shall be violated. Any person who willfully interferes with or obstructs the officers of the Department in the discharge of any of their duties under this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or imprisoned not more than thirty days.

J. Emergency Procedures

1. The Permittee shall prepare and maintain an up-to-date emergency preparedness plan in accordance with R.61-58.8(B).

2. The Permittee shall comply with the requirements of R.61-58.8(C) and (D) when operating under emergency conditions.

K. Monitoring and Reporting Requirements

The Permittee shall comply with the monitoring and reporting requirements of the SPDWR.

Exhibit B

Final Approvals to Place into Operation (issued by DHEC on January 12, 2016)

D H E C

PROMOTE PROTECT PROSPER

Catherine E. Heigel, Director

DRINKING WATER

FINAL APPROVAL TO PLACE INTO OPERATION

ISSUED TO: MCBEE TOWN OF
PO BOX 248
MCBEE SC 29101

for the operation of a potable water system permitted under Construction Permit No. 29779-WS, dated June 30, 2014, as described below:

PROJECT NAME: WELL NO 1 & 2 GAC CONTACTOR ADDITION
COUNTY: Chesterfield
PROJECT DESCRIPTION: Installation of two (2) GAC contactors - Well #1 366 cubic feet, Well #2 241 cubic feet and all necessary appurtenances.
WATER PROVIDED BY: Mcbee Town Of
SYSTEM NUMBER: 1310004

SPECIAL CONDITIONS:
This Final Approval to Operate is being conditionally approved. The Department has concerns about the water system's capacity if only Well No.1 and Well No. 2 are the sole sources for water supply. The Town of McBee's Public Water System Operating Permit, Permit Number 1310004, contains the following language:

B. System Specific Conditions

The Town of McBee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quantity and quality to ensure compliance.

The Department recommends that the Town of McBee investigate this capacity issue to demonstrate that sufficient capacity exists before utilizing Well No.1 and Well No. 2 as the primary supply for water.

D H E C

PROMOTE PROTECT PROSPER

Catherine E. Heigel, Director

This approval is based on the engineer's letter of certification signed by Joseph McGougan, P.E., South Carolina Registration No. 12335.

Larry Ragsdale, Regional Engineer Associate
PEE DEE REGION BEHS FLORENCE

DATE ISSUED: January 12, 2016

cc: Bureau of Water Permitting File
Mcbee Town Of
Joseph McGougan, P.E.

D H

PROMOTE. PROTECT. PROSPER

Catherine E. Heigel, Director

DRINKING WATER

FINAL APPROVAL TO PLACE INTO OPERATION

ISSUED TO: MCBEE TOWN OF
PO BOX 248
MCBEE SC 29101

for the operation of a potable water system permitted under Construction Permit No. 28475-WS, dated June 15, 2012, as described below:

PROJECT NAME: MCBEE WATER SYSTEM WELL NO.2
COUNTY: Chesterfield
PROJECT DESCRIPTION: Installation of a 200 GPM submersible pump (set at a depth of 228 feet), sodium hypochlorite feed system, 200 gallon HDLPE tank, two feed pumps and all associated appurtenances.
WATER PROVIDED BY: Mcbee Town Of
SYSTEM NUMBER: 1310004

SPECIAL CONDITIONS:
This Final Approval to Operate is being conditionally approved. The Department has concerns about the water system's capacity if only Well No.1 and Well No. 2 are the sole sources for water supply. The Town of McBee's Public Water System Operating Permit, Permit Number 1310004, contains the following language:

B. System Specific Conditions

The Town of McBee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quantity and quality to ensure compliance.

The Department recommends that the Town of McBee investigate this capacity issue to demonstrate that sufficient capacity exists before utilizing Well No.1 and Well No. 2 as the primary supply for water.

D H E C

PROMOTE PROTECT PROSPER

Catherine E. Heigel, Director

This approval is based on the engineer's letter of certification signed by Joseph McGougan, P.E., South Carolina Registration No. 12335.

Larry Ragsdale, Regional Engineer Associate
PEE DEE REGION BEHS FLORENCE

DATE ISSUED: January 12, 2016

cc: Bureau of Water Permitting File
Mcbee Town Of
Joseph McGougan, P.E.

CERTIFICATE OF SERVICE

I, the undersigned Legal Secretary of the law offices of Womble Carlyle Sandridge & Rice LLP, Attorneys for Appellant, do hereby certify that I have served the below parties in this action with a copy of the pleading(s) specified below by mailing a copy of the same, via United States mail, postage prepaid, to the following address(es):

Pleading: Reply in Support of Town of McBee's Motion to Dismiss Request for Contested Case

Parties Served:

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Joan W. Hartley
Nexsen Pruet, LLC
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Columbia, South Carolina 29201

Attorneys for Petitioner

Stephen P. Hightower
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Columbia, South Carolina 29201

Attorneys for the South Carolina Department of Health and Environmental Control

Edwin T. Mathis

April 15, 2016

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. 16-ALJ-07-0082-CC **PETITIONER A. O. SMITH CORPORATION'S MOTION FOR RECONSIDERATION**

Pursuant to Rule 29(D) of the South Carolina Rules of Procedure for the Administrative Law Court and Rule 59(e) of the South Carolina Rules of Procedure, Petitioner A. O. Smith Corporation ("A.O. Smith"), respectfully moves the Court for reconsideration of the Order Granting Respondent's Motion to Dismiss ("Order"). The grounds for this Motion are set forth below.

1. DHEC did not public notice the Construction Permits issued to the Town.

In the Background Section of the Order, the Court notes that A.O. Smith did not comment on the Construction Permit 28475-WS and Construction Permit 29779-WS (collectively, the "Construction Permits"). Citing to S.C. CODE ANN. § 44-1-60(B), the Court states in its Order that the procedure provided therein requires the Department to "provide public notice when receiving and reviewing a permit application." (Order, p. 3). However, Section 44-1-60(B) does not require the Department to issue a public notice for every decision and does not limit decisions subject to the appeal process in Section 44-1-60 to those decisions which are placed on public notice prior to or upon issuance. S.C. CODE ANN. § 44-1-60(B). Instead, Section 44-1-60(B) provides that the Department "shall comply with all requirements for public

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notice, receipt of public comments and public hearing before making a department decision." *Id.* (emphasis added). Therefore, to the extent that a department decision is issued pursuant to a regulation which requires public notice, the Department must comply with such requirements. Conversely, when the applicable regulation does not require the Department to public notice a decision, Section 44-1-60(B) does not impose a public notice requirement on such decision.

The Department was not required to issue any public notice for the Construction Permits. Many of the regulations promulgated by the Department include public notice requirements. *See, e.g.*, S.C. CODE REGS. § 61-9.124.10 (requiring public notice of certain NPDES and Land Application permit actions); S.C. CODE REGS. § 61-43.200.60 & 300.60 (requiring public notice of application for an agricultural animal facility); S.C. CODE REGS. § 61-67 App. B.1.d(1) (requiring public notice for general construction permits for wastewater facilities); S.C. CODE REGS. § 61-62.70.7(h) (requiring public notice for air permitting decisions); S.C. CODE REGS. § 61-101.D (requiring the Department public notice comment period on application for water quality certification); S.C. CODE REGS. § 61-107.19, Part I.D.2 (requiring public notice for permit applications, draft permits and final permits for Class Two and Class Three Landfills); S.C. CODE REGS. § 61-113F.8 (requiring public notice for certain applications for a groundwater withdrawal permit); S.C. CODE REGS. § 61-119.F (requiring public notice for new and expanding surface water withdrawal permits). The Construction Permits were issued pursuant to S.C. CODE REGS. 61-58.1, which governs construction and operating permits for public water system facilities. S.C. CODE REGS. § 61-58.1. There is no public notice requirement in this section of the State Primary Drinking Water Regulations. Moreover, there is nothing in the record before the Court which indicates that the Department issued public notice for the Construction Permits. Specifically, in the "Statement of Staff Decision" dated February 12, 2016, the Department

details the procedural history for the Construction Permits, but does not identify any form of public notice prior to or upon issuance of the Construction Permits. The Department was not required to and did not public notice the Construction Permits. Therefore, A.O. Smith's failure to comment on the Construction Permits does not affect its right to bring a contested case to challenge the Final Approval to Place into Operation for Well No. 1 & 2 GAC Contactor Addition (Construction Permit No. 29779-WS) and the Final Approval to Place into Operation for McBee Water System Well No. 2 (Construction Permit No. 28475-WS) (collectively "Final Approvals").

2. The Final Approvals are "initial decisions" under Section 44-1-60.

In granting the motion to dismiss A.O. Smith's contested case, the Court finds that the Final Approvals are not "initial decisions" under Section 44-1-60. (Order, p. 3 (citing S.C. CODE ANN. § 44-1-60(B)-(D)). This narrow interpretation of "initial decision" is contrary to Section 44-1-60 and the APA definitions of Department decisions subject to a contested case. S.C. CODE ANN. § 44-1-60 sets forth the procedures for challenging a DHEC decision "involving the issuance, denial, renewal, suspension, or revocation of permits, licenses, or other actions of the department which may give rise to a contested case." S.C. CODE ANN. § 44-1-60(A). For purposes of a contested case before this Court, the APA defines license as "the whole or part of any agency permit, franchise, certificate, approval, registration, charter, or similar form of permission required by law, but it does not include a license required solely for revenue purposes." S.C. CODE ANN. § 1-23-310(4); S.C. CODE ANN. § 1-23-505(4) (emphasis added). The Final Approvals are written approvals by DHEC required under both the State Safe Drinking Water Act and the State Primary Drinking Water Regulation. *See* S.C. CODE ANN. § 44-55-40(C); S.C. CODE REGS. 61-58.1(K). Recently, the Supreme Court held that there was no "staff decision" under S.C. CODE ANN. § 44-1-60 because "there was no legal duty owed by DHEC to

issue a staff decision." *Amisub of South Carolina, Inc. v. South Carolina Dep't of Health and Envtl. Control*, 403 S.C. 576, 596, 743 S.E.2d 786, 797 (2013). In contrast, in this case the Final Approvals are written approvals by DHEC required under both the State Safe Drinking Water Act and the State Primary Drinking Water Regulation. *See* S.C. CODE ANN. § 44-55-40(C); S.C. CODE REGS. 61-58.1(K). Therefore, the Final Approvals were issued pursuant to a "legal duty owed by DHEC" and are "initial decisions" under S.C. CODE ANN. § 44-1-60.

3. Even if approvals to place into operation were not generally subject to appeal under Section 44-1-60, the conditional approval within the Final Approvals is a staff decision subject to appeal under Section 44-1-60.

The Final Approvals are not simply a confirmation by the Department that the wells and filtration system were constructed in accordance with the Construction Permits. Each of the Final Approvals expressly provides that "[t]his Final Approval to operate is being conditionally approved." Section 61-58.1(K) of the Drinking Water Regulation sets forth the requirements for obtaining an approval to place a newly-constructed facility into operation. This section of the Regulation does not authorize the Department to issue such approval with conditions. *cf.* S.C. CODE REGS. § 61-67.100.E.5 (providing that a final permit decision on a wastewater facility construction permit may be a decision to issue the permit, deny the permit or issue the permit with conditions); S.C. CODE REGS. § 61-62.5 St. 7(q)(2) (an application for an air permit may be approved, approved with conditions, or disapproved). Therefore, the Department lacks regulatory authority to issue a conditional approval to place the wells and filtration systems into operation.

Additionally, the "conditionally approved" Final Approvals are not analogous to a certificate of occupancy for construction of a house. A certificate of occupancy does not place conditions on the use of the house. If the construction of a house does not meet all of the code requirements, then the certificate of occupancy will not be issued. In the Order, the Court finds

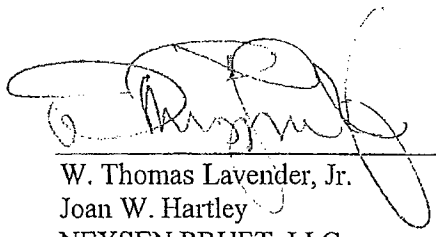
that the Town intends "to operate its water system independently of Alligator in the future." (Order, p. 4, fn. 3). Yet, the Department issued the Final Approvals with conditions acknowledging that the Town had not complied with the regulatory ("code") requirements for operation of the Town's water system without Alligator. The Department also acknowledged that it had not evaluated the two wells for operation independently. A.O. Smith is therefore entitled to bring a contested case to challenge the terms of and the regulatory authority for the conditions which the Department staff imposed in the Final Approvals.

4. The "adequate assurance" sought by A.O. Smith is assurance of compliance with a regulatory requirement.

In the Order, the Court notes that A.O. Smith is requesting "adequate assurances" that the Town can provide sufficient water for operation of A.O. Smith's facility. The Court states that "[a]dequate assurance is a contract term that has nothing to do with the actions of the Department is in this case." (Order, p. 4). The Court misinterprets A.O. Smith's request for relief. A.O. Smith is not asking that the Court determine whether the Town can meet its requirements to A.O. Smith as a water customer of the Town. A.O. Smith is asking the Court to determine whether the Town is required to satisfy the requirements of Section 61-58.2(B)(1)(b) of the State Primary Drinking Water Regulation prior to operation of its water system, and if so, whether the Department has authority to issue the Final Approvals without the Town's demonstration of compliance with this regulatory requirement. Compliance with applicable regulatory requirements governing a Department decision is a valid ground for a contested case. As such, A.O. Smith's claim that the Town system does not comply with Section 61-58.2(B)(1)(b) is a valid ground for challenging the Department's issuance of the Final Approvals.

CONCLUSION

For the reasons stated herein, A. O. Smith respectfully requests that the Court reconsider its decisions to dismiss this contested case.



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May 19, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. 16-ALJ-07-0082-CC **CERTIFICATE OF SERVICE**

This is to certify that **Petitioner A.O. Smith Corporation's Motion for Reconsideration** have been served on the following counsel of record by placing the same in the United States mail, first class postage prepaid, addressed to the following as shown below this 19th day of May, 2016:

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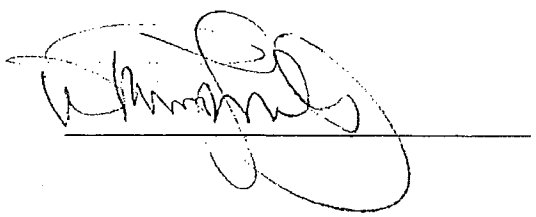

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SC ADMIN. LAW COURT

STATE OF SOUTH CAROLINA
BEFORE THE ADMINISTRATIVE LAW COURT

A.O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	)	Docket No. 16-ALJ-07-0082-CC TOWN OF MCBEE'S RESPONSE IN OPPOSITION TO A.O. SMITH'S MOTION FOR RECONSIDERATION

In seeking reconsideration of the Court's order dismissing this case, A.O. Smith repeats the arguments that the Court has previously—and rightly—rejected. The law does not allow a third party to wait until years after a permit is issued, and construction is completed under it, to challenge its provisions. That is the case here. Nothing A.O. Smith presents in its pending motion changes that fact.

ARGUMENT

I. DHEC followed the proper procedure in issuing permits to the Town of McBee, and A.O. Smith never argued to the contrary.

In its dismissal order, the Court noted that DHEC statutes require the agency to account for public comments it receives when issuing a permit. (Order at 3 (citing S.C. Code Ann. § 44-1-60)). The Court's only point was that A.O. Smith had the opportunity to provide comments and did not.

A.O. Smith argues that the Court mistakenly ruled that DHEC was under a legal duty to issue a public notice of the permit application and issue a public request for comments. This is pure fabrication. The Court's order says no such thing. The Court properly outlined the DHEC permitting process and ruled that DHEC must make decisions based on a complete

administrative record, including public comments if received. S.C. Code Ann. § 44-1-60. The statute does not impose a requirement for a public hearing in every permitting proceeding, and the Court did not hold that there was. This part of the Court's ruling comports entirely with the law. Second, at the hearing before this Court, A.O. Smith indicated that it has been concerned about the Town's water system since 2007. But A.O. Smith never submitted public comments or made its concerns known until years after DHEC issued the appropriate permits to the Town. The Court rightly recognized that A.O. Smith slept on its right and thereby lost the opportunity to object to those permits.

Finally, to the extent A.O. Smith is now attempting to argue that DHEC did not follow proper notice procedures when it issued the Town's permits, this is a point that was not raised or argued previously. It is untimely and not preserved. *See, e.g., Dixon v. Dixon*, 362 S.C. 388, 399, 608 S.E.2d 849, 854 (2005) (reiterating that parties are prohibited from raising issues for the first time in a Rule 59 motion).

II. A.O. Smith's request for review of DHEC's permitting decisions that were made in 2011 is untimely regardless of whether DHEC's final approvals could have been appealed.

A.O. Smith's remaining three arguments repeat the same positions it advanced in opposition to dismissal. It is undisputed that the "conditions" that A.O. Smith cites as the basis of its objections were included in the permits that DHEC issued to the Town in June 2011 and earlier. These conditions are nothing more than a verbatim restating of the regulatory requirements that apply to all sanitary water systems in South Carolina. The Court rightly held that concerns about these conditions, if any, were properly raised at the time the underlying construction or operating permits were issued, not years later after McBee had spent approximately $480,000 in public funds in reliance on those permits. A.O. Smith cannot use a

final agency authorization to reopen agency decisions that were made years and years earlier and on which others have relied. *See, e.g.*, *Hubbard v. S.C. DHEC*, Dkt. No. 07-ALJ-07-0594-CC, 2008 SC ALJ LEXIS 85 (S.C. Admin. Law Ct. May 2, 2008) (holding that a request for a contested case hearing during the license-renewal process did not re-vest the Court with jurisdiction to review DHEC's actions during the initial license application phase).

If A.O. Smith wanted to object to these permitting decisions and the "conditions" DHEC imposed on the Town's water system, it was required to seek review of the agency's decision in 2011—before hundreds of thousands of public dollars were invested in reliance on them. Nothing in A.O. Smith's motion raises any new argument, factual or legal, to cast doubt on the validity of the Court's order dismissing this case. The Court should deny A.O. Smith's motion accordingly.

CONCLUSION

The Court's decision to dismiss this case is unimpeachable. As such, it should deny A.O. Smith's request to reconsider the same arguments that the Court previously rejected.

SIGNATURE PAGE ATTACHED

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

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June 10, 2016
Columbia, South Carolina

CERTIFICATE OF SERVICE

I, the undersigned Legal Secretary of the law offices of Womble Carlyle Sandridge & Rice LLP, Attorneys for the Town of McBee, do hereby certify that I have served the below parties in this action with a copy of the pleading(s) specified below by mailing a copy of the same, via United States mail, postage prepaid, to the following address(es):

Pleading: Town of McBee's Response in Opposition to A.O. Smith's Motion for Reconsideration

Parties Served:

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Edwin T. Mathis

June 10, 2016

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A.O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	)	DOCKET NO. 16-ALJ-07-0082-CC **RESPONDENT SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL'S MEMORANDUM OF LAW IN OPPOSITION TO PETITIONER'S MOTION FOR RECONSIDERATION**

INTRODUCTION

Respondent South Carolina Department of Health and Environmental Control ("Department" or "SCDHEC") respectfully submits this Memorandum of Law in Response to Petitioner's Motion for Reconsideration. Petitioner A.O. Smith Corporation ("A.O. Smith")'s motion alleges four grounds upon which the Court should grant its motion. As will be shown in detail below, none of these reasons individually or together support granting A.O. Smith's motion and allowing this case to proceed.

DISCUSSION

I. A.O. Smith's failure to timely challenge the Department's issuance of the Construction Permits cannot be excused by claiming that the Department did not provide public notice.

A.O. Smith's claim that its failure to challenge the issuance of the Construction Permit No. 28475-WS in 2012 for modifications to Well No. 2 ("Construction Permit I") and Construction Permit No. 29779-WS in 2014 for the installation of granulated activated charcoal filters to Well Nos 1 and 2 ("Construction Permit II") does not affect its right to being a contested case proceeding against the Final Approvals for the Construction Permits is without merit. *See* Motion for

Reconsideration p. 3. As conceded by A.O. Smith, there is no public notification requirement for Construction and Operation permits issued pursuant to the State Safe Drinking Water Act, codified at S.C. Code Ann. §§ 44-55-10 through 44-55-827 (Rev. 2002 & Supp. 2015) and State Primary Drinking Water Regulations ("SPDR") promulgated therefrom and codified at 4 S.C. Code Ann. Regs 61-58 (2011 & Supp. 2015). Indeed, the only public notice provisions contained in the Drinking Water statute and regulations impact the Department's enforcement of the regulations and govern when and how a public water system is to notify the public of its regulatory violations. S.C. Code Ann. § 44-55-70; 4 S.C. Code Ann. Regs 61-58.6. Moreover, as conceded by A.O. Smith, the fact that there is no statutory or regulatory requirement under the substantive law governing the issuance of SPDR permits that the Department's issuance of the Town's Construction Permits be publicly noticed also means that under the Department's appellate procedures statute, S.C. Code Ann. § 44-1-60 (Supp. 2015), the Department was not required to notify A.O. Smith. Motion for Reconsideration pp. 1-2.

However, contrary to A.O. Smith's claim, these facts do not excuse it failure to challenge the Construction Permits. The Department's appellate procedures expressly provide that an affected party can ensure that it is notified a Department decision by requesting to be so notified in writing. S.C. Code Ann. § 44-1-60(E)(1). If A.O. Smith had submitted such written requests for each Construction Permit, the Department would have been obligated to notify it of the issuance Construction Permit I and II. Indeed, under such circumstances, if the Department had failed to provide notification under S.C. Code Ann. § 44-1-60(E)(1), A.O. Smith's time to file a challenge to the permits would not have begun until the Department complied with the statute no matter how long that took. *South Carolina Coastal Conservation League v. South Carolina Department of Health and Environmental Control, et al.*, 390 S.C. 418,429, 702 S.E.2d 246, 252 (2010) (holding that "in situations where DHEC fails to simultaneously notify the applicant, permittee, licensee, and affected

persons asking to be notified, the latest date of mailing controls when the fifteen day period begins to run"). However, since A.O. Smith did not avail itself of this right despite its purported concern that the Town could not meet the SPDR requirements contained in S.C. Code Ann. Regs 61-58.2(B)(1)(b), it cannot claim that notification or the lack thereof deprived it of the ability to file a timely challenge to the Department's issuances of Construction Permit I and II. Therefore, A.O. Smith claim is without merit.

II. Final Approvals of SPDR Permits are not Department decisions that can be challenged under Section 44-1-60.

The Department's appellate procedure statute limit appeals of Department decisions to those giving rise to contested case proceedings. S.C. Code Ann. § 44-1-60(A). The Administrative Procedures Act ("APA") defines the term "contested case" twice, once as "a proceeding including, but not restricted to, ratemaking, price fixing, and licensing, in which the **legal rights, duties, of a party are required to be determined by an agency after an opportunity for hearing**;" or as "a proceeding including, but not restricted to, ratemaking, price fixing, and licensing, in which the **legal rights, duties, or privileges of a party are required by law or by Article I, Section 22, Constitution of the State of South Carolina, 1895, to be determined by an agency or the Administrative Law Court after an opportunity for hearing**." S.C. Code Ann §§ 1-23-310(3) (2005) and 1-23-505(3) (emphasis added). Taken together, these definitions, in pertinent part, limit contested case proceedings challenging Department decisions to those that impact legal rights, duties, or privileges of a party legally entitled to have these rights, duties, or privileges determined by the Department or the Administrative Law Court after a hearing.

In this case, the SPDR limits the right to request review of Department decisions regarding the engineering requirements set forth in 4 S.C. Code Ann Regs 61-58(C) to the applicant/permittee, which is the Town. 4 S.C. Code Ann. Regs. 61-58.1(N). The Town did not challenge these decisions, and that decision forecloses any subsequent challenge to the Department's engineer

requirements decision by the Town or any other party.

Nevertheless, in its motion, A.O. Smith argues that the Final Approvals for the Construction Permits are "'initial decisions'" under Section 44-1-60." Motion for Reconsideration p. 3. This argument incorrect concludes that the Department decision to issue a Final Approval is a decision that triggers further review of the underlying permitting decision. The requirements for the issuance of a Final Approval for a SPDR Permit are set forth in detail in the SPDR. Specifically, the SPDR provides as follows:

> (1) Newly-constructed facilities shall not be placed into operation until written approval is issued by the Department, except where it is allowed by a general construction permit. Upon completion of permitted construction, the professional engineer shall make arrangements with the Department for final inspection. Prior to this inspection, the professional engineer shall submit to the Department a letter certifying that construction is complete and in accordance with the approved plans and specifications. This letter must specifically identify the project by permit number. If the project was not completed in accordance with the approved plans and specifications, the professional engineer shall so state and shall outline any deviations to the permitted project. No written approval shall be issued to place a drinking water construction project into operation until written approval is obtained to place any associated wastewater construction into operation. The following information, where applicable, shall be submitted with the professional engineer's letter of certification:
> (a) Results of chemical, physical, radiological, and bacteriological analyses of new sources and/or treated water. These analyses shall be performed by a certified laboratory.
> (b) Results of bacteriological analyses following disinfection, including chlorine residuals at the time of collection, which have been conducted within thirty (30) days of the request for final approval. These analyses shall be performed by a certified laboratory.

(c) Results of pressure/leakage test conducted on water lines;
(d) Record drawings of construction if the construction deviated from that approved;
(e) Completed Water Well Record form;
(f) Geophysical/mechanical well logs;
(g) Results of pumping test as required by R.61-58.2(B)(12).
(h) Letter of acceptance from organization responsible for operation and maintenance (must be the same as shown on the application for permit to construct form);
(i) Paint coating(s) used for water storage tank(s);
(j) Copy of recorded legal easement(s) and/or deed restriction(s) for protection of well pollution free radius;
(k) Proof of registration with the S. C. Public Service Commission for new privately owned utilities and homeowner associations;
(l) Proof of testing of all backflow prevention assemblies installed; and,
(m) Copies of any information specified in a special condition of a Department construction permit.

4 S.C. Code Ann. Regs 61-58.1(K). While the regulation mandates the materials that must submitted to the Department to obtain the approval, the regulation is silent as to whether the Department is to make any determination on the adequateness of the submittal other than the information was provided. Where the language of a statute or regulation is ambiguous or silent, courts are required to give deference to the agency interpretation of the law. *Kiawah Development Partners, II v. South Carolina Department of Health and Environmental Control*, 411 S.C. 16, 34-35, 766 S.E.2d 707, 718 (2014) (stating "the deference doctrine properly stated provides that where an agency charged with administering a statute or regulation has interpreted the statute or regulation, courts, including the ALC, will defer to the agency's interpretation absent compelling reasons. We defer to an agency interpretation unless it is 'arbitrary, capricious, or manifestly contrary to the statute'"). With regard to Final Approvals of SPDR Permits, the Department interprets the provision that if an applicant/permittee provides the applicable regulatory information and the Department's inspection

determines that the project conforms to the requirements of the permit, Final Approval must be granted. This interpretation is entitled to deference since it does not add to the regulatory requirements, and the determination that final inspections and review of information do not constitute a permitting decision since the Department is not rethinking is permitting decision is clearly a reasonable determination given the Department's statutory/regulatory scheme that the Legislature has charged the Department with administering.

Moreover, deference for the Department's determination that Final Approvals do not constitute permitting decisions also invalidates A.O. Smith's claim that the Department cannot condition a Final Approval because to do so would constitute a permitting decision. As noted by A.O. Smith, the regulation is silent on the issue. Therefore, the Department is free to use its expertise and skill to determine that conditioning a Final Approval as a way to highlight previously determined requirements and/or to highlight conformity with statutory or regulatory requirements is a reasonable interpretation of its authority under 4 S.C. Code Ann. Regs 61-58.1(K). Thus, A.O. Smith claim is meritless.

III. A.O. Smith is not entitled to a hearing to determine adequate assurance that the Town is in conformity with the SPDR.

A.O. Smith's final claim that it is entitled to a hearing to determine that the Town is in conformity with the SPDR is without merit. Specifically, A.O. Smith is claiming is that it has a private right of action that allows it to challenge the Department's determinations in issuing the Construction Permits to the Town. In South Carolina, the question of whether a statute or regulations creates a private right of action is matter of legislative intent. Specifically, the general rule is "that a statute which does not purport to establish a civil liability, but merely makes provision to secure the safety or welfare of the public as an entity is not subject to a construction establishing a civil liability." *Doe v. Marion*, 373 S.C. 390, 396-97, 645 S.E.2d 245, 397 (2007) (citations

omitted). Further, "[w]hen a statute does not specifically create a private right of action, one can be implied only if the legislation was enacted for the special benefit of a private party." *Id. quoting Citizens of Lee County v. Lee County*, 308 S.C. 23, 28, 416 S.E.2d 641, 645 (1992). As noted above, the SPDR limits contested case challenges to those brought by the applicant/permittee. 4 S.C. Code Ann. Regs 61-58(N). Consequently, the legislature has expressly determined that there is no private right of action by any party other than the applicant/permittee. Accordingly, A.O. Smith is without merit.

CONCLUSION

For the reasons set forth above, and the hearing and proceedings held before this Court, the Court should deny Petitioner's Motion for Reconsideration.

Respectfully submitted,

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June 13, 2016
Columbia, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A.O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	)	DOCKET NO. 16-ALJ-07-0082-CC **CERTIFICATE OF SERVICE**

I, Donna K. Hellerman, Administrative Legal Assistant for the South Carolina Department of Health and Environmental Control, hereby certify that I have on this **13th day of June, 2016,** served the Respondent, South Carolina Department of Health and Environmental Control's Memorandum of Law in Opposition to Petitioner's Motion for Reconsideration, upon the all parties and counsel of record in the above-captioned case, via Electronic Mail and via the United States Mail, First Class, postage prepaid, addressed as follows:

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June 13, 2016
Columbia, South Carolina

RECEIVED
JAN 27 2016
Clerk, Board of Health
and Environmental Control

NEXSEN|PRUET

W. Thomas Lavender, Jr.
Member
Admitted In SC

RECEIVED
JAN 27 2015
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OFFICE OF GENERAL COUNSEL

January 27, 2016

HAND DELIVERY

Ms. Lisa Lucas Longshore, Clerk
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Re: Town of McBee
Final Approvals to Place into Operation
Well No 1 & 2 GAC Contactor Addition (Construction Permit No. 29779-WS)
McBee Water System Well No. 2 (Construction Permit No. 28475-WS)

Dear Ms. Longshore:

We represent A. O. Smith Corporation ("A.O. Smith") in the matters related to water service for its manufacturing facility in Chesterfield County ("A.O. Smith Facility") . Pursuant to S.C. CODE ANN. § 44-1-60, A.O. Smith requests the DHEC Board's final review of the Bureau of Water ("Bureau") decision to issue the following Final Approvals to Place in Operation to the Town of McBee ("Town"):

> Final Approval to Place into Operation issued to the Town on January 12, 2016 for Well No 1 & 2 GAC Contactor Addition (Construction Permit No. 29779-WS) ("Approval for GAC")
>
> Final Approval to Place into Operation issued to the Town on January 12, 2016 for McBee Water System Well No. 2 (Construction Permit No. 28475-WS) ("Approval for Well No. 2")

(Approval for GAC and Approval for Well No. 2 collectively referred to as "January 12, 2016 Approvals"). A copy of the January 12, 2016 Approvals are attached hereto as Appendix A. Our firm's check in the amount of $200 for the filing fee ($100 for each of the January 12, 2016 Approvals") is also enclosed.

Charleston
Charlotte
Columbia
Greensboro
Greenville
Hilton Head
Myrtle Beach
Raleigh

1230 Main Street
Suite 700 (29201)
PO BOX 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.253.8233
F 803.727.1454
E TLavender@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

A.O. Smith is currently an at-will "retail" customer of the Town which has since approximately 1999 has been supplied potable water by Alligator Rural Water & Sewer Company, Inc. ("Alligator System") and will be directly impacted by the Town's operation of its water system without adequate potable water supplied by the Alligator System.

A.O. Smith requests a review of the January 12, 2016 Approvals on the following grounds:

1) The Bureau has failed to require the submittal of data necessary to make a determination that Town Well No. 1 and Well No. 2 has sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B);

2) The "System Specific Conditions" of the January 12, 2016 Approvals recognize the operation of the Town's public water system as "contemplated by the preliminary engineering report dated December 6, 2010" does not meet the requirements of S.C. Regulation 61-58.2(B);

3) The January 12, 2016 Approvals include a "recommendation" which requires the Town to "investigate the capacity issue to demonstrate sufficient capacity exists before utilizing Well No. 1 and Well No. 2 as the primary supply for water." As such, the January 12, 2016 Approvals recognize that such demonstration under S.C. Regulation 61-58.2(B) has not been made even though the preliminary engineering report dated December 6, 2010 contemplates that the Town will operate independent of the current potable water source provide by a connection to the Alligator System;

4) The January 12, 2016 Approvals appear to allow the operation of the Town's public water system without the potable water source provided by the Alligator System.

5) The Town has failed to demonstrate that the Town operation of Town Well Nos. 1 and 2 meet the requirements of a "viable water system" as defined in R.61-58(B).

6) Since the January 12, 2016 Approvals were issued without a prior determination by the Bureau that Well No. 1 and Well No. 2 have sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B), the January 12, 2016 Approvals subject

A.O. Smith to potential interruptions in or inadequate service for the continued operations at the A.O. Smith Facility.

7) Based upon available information from the Department's records it appears that Town Wells No. 1 and No. 2 do not have sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B);

8) The January 12, 2016 Approvals are not based on accurate peak day usage for the Town's public water system as required to demonstrate sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B);

9) The January 12, 2016 Approvals are based on monthly usage for the Town's customers which cannot be used to determine the "maximum day demand" for the Town's public water system as required to demonstrate sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B).

10) The January 12, 2016 Approvals are based on data which does not meet generally accepted practices for calculation of demand.

11) The Well No 1 & 2 GAC Contactor Addition is not sized in accordance with the stated yield of the two Town Wells.

Thank you for your assistance in this matter. If additional information or documentation is needed, please do not hesitate to contact me.

Sincerely,

W. Thomas Lavender, Jr.

Enclosure

cc: A. O. Smith Corporation

APPENDIX A

D H E C

PROMOTE PROTECT PROSPER

Catherine E. Heigel, Director

DRINKING WATER

FINAL APPROVAL TO PLACE INTO OPERATION

ISSUED TO: MCBEE TOWN OF
PO BOX 248
MCBEE SC 29101

for the operation of a potable water system permitted under Construction Permit No. 29779-WS, dated June 30, 2014, as described below:

PROJECT NAME: WELL NO 1 & 2 GAC CONTACTOR ADDITION
COUNTY: Chesterfield
PROJECT DESCRIPTION: Installation of two (2) GAC contactors - Well #1 366 cubic feet, Well #2 241 cubic feet and all necessary appurtenances.
WATER PROVIDED BY: Mcbee Town Of
SYSTEM NUMBER: 1310004

SPECIAL CONDITIONS:
This Final Approval to Operate is being conditionally approved. The Department has concerns about the water system's capacity if only Well No.1 and Well No. 2 are the sole sources for water supply. The Town of McBee's Public Water System Operating Permit, Permit Number 1310004, contains the following language:

B. System Specific Conditions

The Town of McBee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quantity and quality to ensure compliance.

The Department recommends that the Town of McBee investigate this capacity issue to demonstrate that sufficient capacity exists before utilizing Well No.1 and Well No. 2 as the primary supply for water.

This approval is based on the engineer's letter of certification signed by Joseph McGougan, P.E., South Carolina Registration No. 12335.

Larry Ragsdale, Regional Engineer Associate
PEE DEE REGION BEHS FLORENCE

DATE ISSUED: January 12, 2016

cc: Bureau of Water Permitting File
Mcbee Town Of
Joseph McGougan, P.E.

D H E C

PROMOTE. PROTECT. PROSPER

Catherine E. Heigel, Director

DRINKING WATER

FINAL APPROVAL TO PLACE INTO OPERATION

ISSUED TO: MCBEE TOWN OF
PO BOX 248
MCBEE SC 29101

for the operation of a potable water system permitted under Construction Permit No. 28475-WS, dated June 15, 2012, as described below:

PROJECT NAME: MCBEE WATER SYSTEM WELL NO.2
COUNTY: Chesterfield
PROJECT DESCRIPTION: Installation of a 200 GPM submersible pump (set at a depth of 228 feet), sodium hypochlorite feed system, 200 gallon HDLPE tank, two feed pumps and all associated appurtenances.
WATER PROVIDED BY: Mcbee Town Of
SYSTEM NUMBER: 1310004

SPECIAL CONDITIONS:
This Final Approval to Operate is being conditionally approved. The Department has concerns about the water system's capacity if only Well No.1 and Well No. 2 are the sole sources for water supply. The Town of McBee's Public Water System Operating Permit, Permit Number 1310004, contains the following language:

B. System Specific Conditions

The Town of McBee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quantity and quality to ensure compliance.

The Department recommends that the Town of McBee investigate this capacity issue to demonstrate that sufficient capacity exists before utilizing Well No.1 and Well No. 2 as the primary supply for water.

D H E C

PROMOTE PROTECT PROSPER

Catherine E. Heigel, Director

Promoting and protecting the health of the public and the environment

This approval is based on the engineer's letter of certification signed by Joseph McGougan, P.E., South Carolina Registration No. 12335.

Larry Ragsdale, Regional Engineer Associate
PEE DEE REGION BEHS FLORENCE

DATE ISSUED: January 12, 2016

cc: Bureau of Water Permitting File
Mcbee Town Of
Joseph McGougan, P.E.

BOARD:
Allen Amsler
Chairman

Mark S. Lutz
Vice Chairman

Ann B. Kirol, DDS
Secretary

D H E C

PROMOTE PROTECT PROSPER

Catherine E. Heigel, Director

Promoting and protecting the health of the public and the environment

BOARD:
R. Kenyon Wells
Charles M. Joye II, P.E.
L. Clarence Batts, Jr.
John O. Hutto, Sr., MD
William Lee Hewitt, III

South Carolina Board of Health and Environmental Control
2600 Bull Street, Columbia, South Carolina 29201 · Telephone: (803) 898-3309 · Facsimile: (803) 898-3393 · lisa.longshore@dhec.sc.gov

RECEIVED
FEB 24 2016
NEXSEN PRUET, LLC
COLUMBIA

February 17, 2016

U.S. Mail – Certified
9214 8969 0099 9791 4037 911 34
W. Thomas Lavender, Jr., Esquire
Nexsen Pruet
Post Office Drawer 2426
Columbia, SC 29202

U.S. Mail
Belton T. Zeigler, Esquire
Womble Carlyle Sandridge & Rice, LLP
1727 Hampton Street
Columbia, SC 29201

Via Electronic Mail Delivery
Stephen P. Hightower, Esq.
SCDHEC – Office of General Counsel
2600 Bull Street
Columbia, SC 29201

RE: Docket No. 16-RFR-7 and Docket No. 16-RFR-8, Town of McBee – Final Approvals to Place into Operation Well No 1 & 2 GAC Contactor Addition (Construction Permit No. 29779-WS) and McBee Water System Well No. 2 (Construction Permit No. 28475-WS)

Dear Counsel of Record:

The South Carolina Board of Health and Environmental Control will not conduct a Final Review Conference on the above-referenced matter.

CONTESTED CASE GUIDANCE

S.C. Code Section 44-1-60 provides that if the Board declines in writing to schedule a final review conference, the staff decision becomes the final agency decision, and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law

Court (ALC) within thirty calendar days after notice is mailed to the applicant, permittee, licensee, and affected person that the Board declined to hold a final review conference.

A request for a contested case hearing before the Administrative Law Court must be filed within the time allowed and in accordance with the Rules of the ALC, including payment of the ALC's filing fee, at the following address:

Clerk's Office
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Suite 224
Columbia, SC 29201

The ALC's Notice of Request for Contested Case Hearing form and the Rules of the ALC can be found at the ALC's website: http://www.scalc.net. Further information on filing a request for a contested case hearing before the ALC may be obtained by calling the Clerk's Office at the Administrative Law Court (803-734-0550).

If a party files a request for a contested case hearing with the ALC, the party must serve a copy of the request on DHEC and any other parties at the same time the request is filed with the ALC. A copy of the request for a contested case hearing must be delivered or mailed to DHEC at the address at the top of this memorandum.

Sincerely,

Lisa Lucas Longshore

Lisa Lucas Longshore
Clerk

The above information on filing a request for a contested case hearing before the Administrative Law Court is provided as a courtesy; parties before the ALC are responsible for complying with all applicable requirements of the Court.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No.: **REQUEST FOR CONTESTED CASE HEARING**

Pursuant to Rule 11 of the Rules of Procedure for the Administrative Law Court and S.C. CODE ANN. § 44-1-60(G), Petitioner A. O. Smith Corporation ("A.O. Smith"), respectfully requests a contested case hearing before the Administrative Law Court for review of Final Approval to Place into Operation for Well No. 1 & 2 GAC Contactor Addition (Construction Permit No. 29779-WS) ("GAC Approval") and Final Approval to Place into Operation for McBee Water System Well No. 2 (Construction Permit No. 28475-WS) ("Well No. 2 Approval") (collectively "Final Approvals"), which were both issued to the Town of McBee ("Town") by the South Carolina Department of Health and Environmental Control ("Department") on January 12, 2016. Copies of the Final Approvals are attached hereto as **Exhibit A.**

PARTY REQUESTING CONTESTED HEARING

Name and Address of Party Requesting a Contested Case:

A. O. Smith Corporation
25589 Highway 1
McBee, SC 29101

A.O. Smith has standing to bring this action pursuant to S.C. Code Ann. § 44-1-60 as a party aggrieved by a staff decision. A.O. Smith is currently an at-will "retail" customer of the Town

FILED
MAR 15 2016
SC ADMIN. LAW COURT

which has since approximately 1999 has been supplied potable water by Alligator Rural Water & Sewer Company, Inc. ("Alligator System") and will be directly impacted by the Town's operation of its water system without adequate potable water supplied by the Alligator System. A.O. Smith has the right to seek review of the Final Approval by means of a contested case proceeding before the Administrative Law Court.

TIMELINESS

On January 12, 2016, the Department issued the Final Approvals to the Town. Pursuant to S.C. CODE ANN. § 44-1-60(E), A.O. Smith requested a final review of the Final Approvals by the South Carolina Board of Health and Environmental Control ("Board"). By letter dated February 17, 2016, the Clerk of the Board notified A.O. Smith of the Board's decision not to conduct a final review of the Final Approvals. A copy of the February 17, 2016 letter from the Clerk of the Board is attached hereto as **Exhibit B**. A.O. Smith is filing this request for a contested case hearing within the thirty (30) days allowed under Rule 11 of the South Carolina Rules of Procedure for the Administrative Law Court and S.C. CODE ANN. § 44-1-60(G).

GROUNDS FOR APPEAL

The Final Approvals authorize the Town to place into operation two public water system wells with GAC contactors. The Final Approvals each contain the following identical "Special Conditions":

> This Final Approval to operate is being conditionally approved. The Department has concerns about the water system's capacity if only Well No. 1 and Well No. 2 are the sole sources for water supply. The Town of McBee's Public Water System Operating Permit, Permit Number 1310004, contains the following language:
>
> B. System Specific Conditions
>
> The Town of Mc Bee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution

system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quality and quality to ensure compliance.

The Department recommends that the Town of McBee investigate this capacity issue to demonstrate sufficient capacity exists before utilizing Well No. 1 and Well No. 2 as the primary supply of water.

In the Special Conditions of the Final Approvals, the Department acknowledges that the Town has submitted to the Department a preliminary engineering report to support the use of Well No. 1 and Well No. 2 as the sole source for the McBee water system. However, the Special Condition further acknowledges that the Town has failed to demonstrate that Well No. 1 and Well No. 2 meet the regulatory requirement for source capacity. Additionally, by letter dated October 10, 2013, the Town advised A.O. Smith that the Town was working with the Department to place Wells No. 1 and No. 2 back into service as the sole source of water for the Town's water system. The Final Approvals allow the Town to operate Wells No. 1 and No. 2 as the source for the Town's public water system without making the requisite demonstration that these two wells have the source capacity to comply with the requirements of S.C. Regulation 61-58.2(B).

A.O. Smith requests a review of the Final Approvals on the following grounds:

1) The Department has failed to require the submittal of data necessary to make a determination that Well No. 1 and Well No. 2 have sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B);

2) The "Special Conditions" of the Final Approvals recognize the operation of the Town's public water system as "contemplated by the preliminary engineering report dated December 6, 2010" does not meet the requirements of S.C. Regulation 61-58.2(B);

3) The Final Approvals include a "recommendation" which requires the Town to "investigate the capacity issue to demonstrate sufficient capacity exists before utilizing Well No. 1 and Well No. 2 as the primary supply for water." As such, the Final Approvals recognize that such demonstration under S.C. Regulation 61-58.2(B) has not been made even though the preliminary engineering report dated December 6, 2010 contemplates that the Town will operate independent of the current potable water source provide by a connection to the Alligator System;

4) The Final Approvals appear to allow the operation of the Town's public water system without the potable water source provided by the Alligator System and without the requisite demonstration that Well No. 1 and Well No. 2 alone have the source capacity to comply with S.C. Regulation 61-58.2(B).

5) The Town has failed to demonstrate that the Town operation of Well Nos. 1 and 2 meet the requirements of a "viable water system" as defined in S.C. Regulation 61-58(B).

6) Since the Final Approvals were issued without a prior determination by the Department that Well No. 1 and Well No. 2 have sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B), the Final Approvals subject A.O. Smith to potential interruptions in or inadequate service for the continued operations at the A.O. Smith Facility.

7) Based upon available information from the Department's records, it appears that Wells No. 1 and No. 2 do not have sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B);

8) The Final Approvals are not based on accurate peak day usage for the Town's public water system as required to demonstrate sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B);

9) The Final Approvals are based on monthly usage for the Town's customers which cannot be used to determine the "maximum day demand" for the Town's public water system as required to demonstrate sufficient capacity to meet the requirements of S.C. Regulation 61-58.2(B).

10) The Final Approvals are based on data which does not meet generally accepted practices for calculation of demand.

11) The Well No 1 & 2 GAC Contactor Addition is not sized in accordance with the stated yield of the two Town Wells.

A.O. Smith reserves the right to assert additional grounds for this request for contested case hearing as may be identified during discovery.

RELIEF REQUESTED

A. O. Smith requests that the Court rescind the Final Approvals and direct the Department to issue approval for operation of Well No. 2 and the GAC Contractors only upon a demonstration that the Town meets the requirements of S.C. Regulation 61-58. A.O. Smith seeks such other and further relief as this Court deems just and proper.

W. Thomas Lavender, Jr.
Joan W. Hartley
NEXSEN PRUET, LLC
1230 Main Street, Suite 700(29601)
Post Office Drawer 2426
Columbia, SC 29202
803.771.8900
Email: tlavender@nexsenpruet.com
jhartley@nexsenpruet.com

Attorneys for Petitioner A.O. Smith Corporation

March 15, 2016
Columbia, South Carolina

Exhibit A

D H E C

PROMOTE PROTECT PROSPER

Catherine E. Heigel, Director

FINAL APPROVAL TO PLACE INTO OPERATION

ISSUED TO: MCBEE TOWN OF
PO BOX 248
MCBEE SC 29101

for the operation of a potable water system permitted under Construction Permit No. 29779-WS, dated June 30, 2014, as described below:

PROJECT NAME:	WELL NO 1 & 2 GAC CONTACTOR ADDITION
COUNTY:	Chesterfield
PROJECT DESCRIPTION:	Installation of two (2) GAC contactors - Well #1 366 cubic feet, Well #2 241 cubic feet and all necessary appurtenances.
WATER PROVIDED BY:	Mcbee Town Of
SYSTEM NUMBER:	1310004

SPECIAL CONDITIONS:
This Final Approval to Operate is being conditionally approved. The Department has concerns about the water system's capacity if only Well No.1 and Well No. 2 are the sole sources for water supply. The Town of McBee's Public Water System Operating Permit, Permit Number 1310004, contains the following language:

B. System Specific Conditions

The Town of McBee shall maintain its water system in compliance with all of the applicable requirements of the State Primary Drinking Water Regulations, 61-58. The operator of record for the treatment system and the distribution system must be of the appropriate grade.

The total developed groundwater source capacity shall equal or exceed the design maximum day demand without pumping more than sixteen (16) hours a day. With the largest producing well out of service, the capacity of the remaining well(s) pumping twenty-four (24) hours a day shall equal or exceed the design maximum daily demand, except those systems requiring only one well. The capacity from an additional source (Surface Water Plant or Master Meter) will be included in the quantity analysis. However, emergency and stand-by wells will not be included in the quantity analysis. If the Town decides to operate and maintain their water systems either by themselves, or through a different contract operator, they can not violate either the water quantity or water quality portion of the SPDWR and the SDWA. Since Alligator's contract for operation and maintenance is linked to their supply of water, this means that prior to possible independent operation (as contemplated by the preliminary engineering report dated December 6, 2010), the Town must have at least two DHEC-approved sources of sufficient quantity and quality to ensure compliance.

The Department recommends that the Town of McBee investigate this capacity issue to demonstrate that sufficient capacity exists before utilizing Well No.1 and Well No. 2 as the primary supply for water.

This approval is based on the engineer's letter of certification signed by Joseph McGougan, P.E., South Carolina Registration No. 12335.

Larry Ragsdale, Regional Engineer Associate
PEE DEE REGION BEHS FLORENCE

DATE ISSUED: January 12, 2016

cc: Bureau of Water Permitting File
Mcbee Town Of
Joseph McGougan, P.E.

Catherine E. Heigel, Director

FINAL APPROVAL TO PLACE INTO OPERATION

ISSUED TO: MCBEE TOWN OF
PO BOX 248
MCBEE SC 29101

for the operation of a potable water system permitted under Construction Permit No. 28475-WS, dated June 15, 2012, as described below:

PROJECT NAME: MCBEE WATER SYSTEM WELL NO.2
COUNTY: Chesterfield
PROJECT DESCRIPTION: Installation of a 200 GPM submersible pump (set at a depth of 228 feet), sodium hypochlorite feed system, 200 gallon HDLPE tank, two feed pumps and all associated appurtenances.
WATER PROVIDED BY: Mcbee Town Of
SYSTEM NUMBER: 1310004

SPECIAL CONDITIONS:
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Larry Ragsdale, Regional Engineer Associate
PEE DEE REGION BEHS FLORENCE

DATE ISSUED: January 12, 2016

cc: Bureau of Water Permitting File
Mcbee Town Of
Joseph McGougan, P.E.

Exhibit B

BOARD:
Allen Amsler
Chairman

Mark S. Lutz
Vice Chairman

Ann B. Kirol, DDS
Secretary

D H E C

PROMOTE PROTECT PROSPER

Catherine E. Heigel, Director

Protecting and protecting the health of the public and the environment

BOARD:
R. Kenyon Wells
Charles M. Joye II, P.E.
L. Clarence Batts, Jr.
John O. Hutto, Sr., MD
William Lee Hewitt, III

South Carolina Board of Health and Environmental Control
2600 Bull Street, Columbia, South Carolina 29201 · Telephone: (803) 898-3309 · Facsimile: (803) 898-3393 · lisa.longshore@dhec.sc.gov

RECEIVED
FEB 24 2016
NEXSEN PRUET, LLC
COLUMBIA

February 17, 2016

U.S. Mail – Certified
7014 2870 0000 7979 4083
W. Thomas Lavender, Jr., Esquire
Nexsen Pruet
Post Office Drawer 2426
Columbia, SC 29202

U.S. Mail
Belton T. Zeigler, Esquire
Womble Carlyle Sandridge & Rice, LLP
1727 Hampton Street
Columbia, SC 29201

Via Electronic Mail Delivery
Stephen P. Hightower, Esq.
SCDHEC – Office of General Counsel
2600 Bull Street
Columbia, SC 29201

RE: Docket No. 16-RFR-7 and Docket No. 16-RFR-8, Town of McBee – Final Approvals to Place into Operation Well No 1 & 2 GAC Contactor Addition (Construction Permit No. 29779-WS) and McBee Water System Well No. 2 (Construction Permit No. 28475-WS)

Dear Counsel of Record:

The South Carolina Board of Health and Environmental Control will not conduct a Final Review Conference on the above-referenced matter.

CONTESTED CASE GUIDANCE

S.C. Code Section 44-1-60 provides that if the Board declines in writing to schedule a final review conference, the staff decision becomes the final agency decision, and an applicant, permittee, licensee, or affected person may request a contested case hearing before the Administrative Law

Court (ALC) within thirty calendar days after notice is mailed to the applicant, permittee, licensee, and affected person that the Board declined to hold a final review conference.

A request for a contested case hearing before the Administrative Law Court must be filed within the time allowed and in accordance with the Rules of the ALC, including payment of the ALC's filing fee, at the following address:

Clerk's Office
South Carolina Administrative Law Court
Edgar A. Brown Building
1205 Pendleton St., Suite 224
Columbia, SC 29201

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Sincerely,

Lisa Lucas Longshore

Lisa Lucas Longshore
Clerk

The above information on filing a request for a contested case hearing before the Administrative Law Court is provided as a courtesy; parties before the ALC are responsible for complying with all applicable requirements of the Court.

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

A. O. Smith Corporation, Petitioner, vs. South Carolina Department of Health and Environmental Control and Town of McBee, Respondents.	Docket No. **CERTIFICATE OF SERVICE**

This is to certify that Request for Contested **Case Hearing** has been served on the counsel of record and the Clerk of the South Carolina Board of Health and Environmental Control by placing the same in the United States mail, first class postage prepaid, addressed to the following as shown below this 15th day of March, 2016:

Ms. Lisa Lucas Longshore, Clerk
South Carolina Board of Health
and Environmental Control
2600 Bull Street
Columbia, SC 29201

Stephen P. Hightower, Esquire
Office of General Counsel
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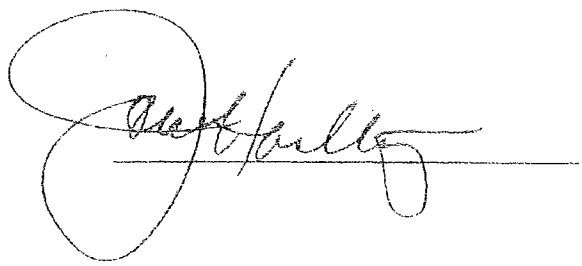

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In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Shirley C. Robinson, Administrative Law Judge

Case No. 16-ALJ-07-0082-CC

A. O. Smith Corporation ..... Appellant,

v.

South Carolina Department of Health and Environmental Control
and Town of McBee ..... Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties, except for proposed material which was stricken by Order dated February 10, 2017, and not any other material.

March 9, 2016

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