

Doing Our Best

MALVERN WATER WORKS



506 Overman Street
P.O. Box 638
Malvern, Arkansas 72104

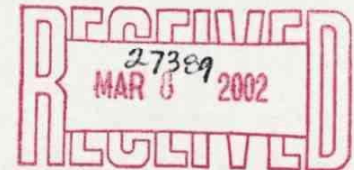
501 332-3634, Phone
501 332-5730, Facsimile

Monty Ledbetter, Manager
Shirley Buck, Assistant Manager

March 5, 2002

Mr. Chuck Bennett, Chief
Water Division
Arkansas Department of Environmental Quality
P.O. Box 8913
Little Rock, Arkansas 72219-8913

RE: Consent Administrative Order
LIS NO 95-008
NPDES Permit AR0034126
Release of Escrow, Sanitary Sewer Overflows Induced by Rainfall
Malvern Water Works
Malvern, Arkansas



NPDES COMPLIANCE FILES

NPDES # 34126

DMR'S
 NCR Z
 CORRESPONDENCE
 CRAS

Dear Mr. Bennett:

First, allow me to express my appreciation to you and Ms. Leath for talking with Malvern Water Works on March 4, 2002. In the future, we look forward to be considered a partner rather than an adversary.

In January of 1995, Mr. Hershel Garrison, then Manager of Malvern Water Works, signed a Consent Administrative Order specifically regarding sanitary sewer overflows caused by rainfall (Inflow and Infiltration). Mr. Garrison believed that Malvern Water Works could comply with the CAO in-house. Unfortunately, those efforts were not sufficient. In 1997, after I became the manager, we entered the Revolving Loan Fund program in order to afford the engineering and improvements necessary to comply with ADEQ and EPA requirements.

Part of the Order and Agreement required Malvern to deposit the sum of Ten Thousand Dollars (\$10,000) into an interest bearing Escrow account. Item 4 of the Escrow Agreement states that upon full and final compliance with all the terms and conditions of the Order, as determined by ADPC&E, Depositor may request permission to withdraw the funds remaining in the account.

As evidence of Malvern's work to address its Inflow and Infiltration problems the following actions have been taken by Malvern Water Works since 1997.

- Borrowed funds from the RLF program to finance improvements.
- Contracted Byrd/Forbes Engineering to perform a \$200,000+ Sanitary Sewer Evaluation Study (SSES).
- Purchased Smoke Testing equipment and trained crews to perform the diagnostic work involved.
- Purchased a Vacuum Pump Truck to use in cleaning and maintaining sewer mains.
- Purchased Brush-hog to use in maintaining right-of-way access to sewer mains.
- Located and raised 90% of the manholes that were previously buried or paved over in order to provide access to sewer mains.
- Rehabilitated 80 manholes identified by the SSES as major sources of inflow and infiltration. Additionally, we have cleaned 142 manholes, as well as inspected 1557 manholes.

A Municipal Water & Sewer System

- Purchased Cues CCTV Van and trained personnel to operate the equipment in order to inspect and evaluate the condition of sewer mains. We have visually inspected some 50,000 feet of sewer mains
- Developed a plan to inspect the entire 75 miles of sewer mains on a 5 year basis. Malvern has 5 major collection basins with some 1200 manholes. The plan calls for smoke testing, selected CCTV work, manhole inspections and cleaning of lines. Such diagnostic work will lead to continuing to make repairs to the system.
- Contracted Heller Company to install approximately 2000 linear feet of pipe bursting to replace a segment of sewer main that was a major source of inflow and infiltration.
- Contracted Insituform to reline approximately 1 mile of sewer mains that were identified by the SSES as having the most severe defects regarding inflow and infiltration.
- Established a 4-man crew (with a payroll cost of \$167,000) whose job is to focus on finding and repairing sewer system defects that allow inflow and infiltration.
- Have crew actively involved in making point repairs as identified by the SSES. To date some 100 point repairs have been made.
- Installed larger pumps at the main pump station on Walco Road in order to move wastewater more efficiently to the sewer treatment plant.
- Have plans to spend approximately \$200,000 in 2002 on Insituform cured-in-place pipe repair on priority 2 defects.

We believe that we have seriously addressed the problems that developed in the Malvern sewer system over a 30 to 50 year period. We believe that we are being proactive in our approach to improving our system and keeping it maintained. Obviously such problems do not develop overnight and will not be cured quickly. It is my commitment to keep the Inflow and Infiltration Program in operation as a primary part of the daily operations of our sewer division.

With this in mind, I am formally requesting that ADEQ release Malvern Water Works to withdraw the Escrow Funds. The accumulated funds will be dedicated to the Inflow and Infiltration Program in order to help enable my crew to continue to fulfill their mission.

I look forward to hearing from you soon. Please contact me should you have any further questions or concerns.

Sincerely,



Monty Ledbetter

ML/hh

Cc: Ms. Mary Leath, Deputy Director, ADEQ
George Hopkins, Attorney at Law
Malvern Water and Sewer Commission

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MALVERN WATER WORKS



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506 Overman Street
P.O. Box 638
Malvern, Arkansas 72104

501 332-3634, Phone
501 332-5730, Facsimile

Monty Ledbetter, Manager
Shirley Buck, Assistant Manager

February 13, 2002

Mr. Eugene P. Lewis, Enforcement Supervisor
NPDES Enforcement Section
Arkansas Department of Environmental Quality
P.O. Box 8913
Little Rock, Arkansas 72219-8913

Reference: NPDES Permit No. AR003126
Malvern, Arkansas
Proposed CAO

NPDES COMPLIANCE FILES
NPDES # AR0034126
_____ DMR'S
_____ NCR
 CORRESPONDENCE
_____ CRAS

Dear Mr. Lewis:

OVERVIEW

Malvern Water Works admits that Malvern once was a city with its head in the sand as to sewer issues. It was not willing to spend time, money or effort to address issues on sewer concerns. Its goal was to do nothing and it was typically able to achieve this goal.

In 1997, I became manager of Malvern Water Works. My first action was to meet with ADEQ to begin a new era for Malvern. Malvern understands why it has a tarnished image with long-term employees at ADEQ. At the same time, Malvern's new approach to be progressive and productive seems to be overlooked. Malvern is determined to prove itself to the Department.

Bad actors and non-actors need to have pressure to change practices and address problems. Malvern Water Works' record since 1997 shows such pressure is not needed to prod Malvern Water Works into action. ADEQ should put the former litigation behind it and focus on Malvern Water Works' willingness to be a partner in environmental progress. As evidence of Malvern Water Works' commitment to address sewer concerns that ADEQ may not have noticed, Malvern Water Works has done the following since 1997:

1. Constructed a \$3.9 million dollar wastewater treatment and disinfection facility.
2. Completed a Sanitary Sewer Evaluation Study (SSES) that identified and prioritized inflow and infiltration defects within its system;
3. Established a permanent four (4) man inflow and infiltration crew dedicated to diagnostic and corrective actions;
4. Contracted cured-in-place pipe repair for the most severe inflow and infiltration sources identified by the SSES above;
5. Purchased a vacuum truck for cleaning sewer mains and manholes;
6. Purchased a Cues closed-circuit television Van for diagnostic internal inspection of sewer mains;
7. Purchased smoke-testing equipment for locating breaks and defects in sewer mains and private service lines;
8. Purchased manhole repair forms and materials;
9. Trained employees in the proper and effective use of the equipment above;
10. Trained employees on manhole repairs and sewer main point repairs;
11. Trained employees for confined space entry;
12. Sent out hundreds of letters to property owners requiring corrective actions to repair private service defects, with 95% compliance to date. (Even our attorney, George Hopkins, received a letter and he has repaired his defect. Contrary to the word on the street, we didn't even have to threaten him.)
13. Established a five(5) year plan for diagnostic inspection of the entire sewer system in order to continue to identify and correct defects in the system;
14. Expended over \$100,000 on pipe bursting to repair a sewer main which was a major source of inflow;
15. Made inflow and infiltration a major priority in Malvern Water Works' operation; and
16. Focused on excellence in proactive solutions for all operations.

SPECIFIC RESPONSE

I have reviewed your letter of January 29, 2002 in consultation with Malvern Water Works' attorney, George Hopkins and Malvern Water Works' engineer, Larry Gaddis. Based upon those discussions, we have prepared the following in response to the Proposed CAO.

SOUTHWORTH
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25% COTTON FIBER

- Finding of Fact No. 1

Malvern Water Works is located in Hot Springs County, Arkansas. The Permittee operates a wastewater treatment facility pursuant to National Pollutant Discharge Elimination System (NPDES) permit number AR0034126 (hereinafter " the permit").

RESPONSE:

Malvern Water Works agrees with this finding. However, please modify the name to Hot Spring County, Arkansas in order to prevent Malvern Water Works from being hung in effigy by the local historical society. (Several local residents are very sensitive about the "s".)

- Finding of Fact No. 3

Part III, Condition 9 of the permit requires that Chronic Biomonitoring Testing be conducted quarterly, when there is a discharge in that quarter, with the test results reported to ADEQ.

RESPONSE:

Malvern Water Works acknowledges the requirement for Chronic Biomonitoring when there is a discharge.

- Finding of Fact No 4

The permittee reported a wastewater discharge from their facility during the month of July 2001. The Permittee failed to perform the required Chronic Biomonitoring Test for the third Quarter of 2001.

RESPONSE:

Malvern denies that a violation occurred due to impossibility. However, Malvern is willing to discuss this issue with ADEQ further. We acknowledge that Malvern Water Works did not perform the Chronic Biomonitoring Test for the third Quarter of 2001. At that time, construction was still in progress on the aerated pond system. According to the permit, the requirement for Chronic Biomonitoring became effective July 1, 2001. Also, according to the permit, the first toxicity test was to be initiated within 60 days. Malvern Water Works

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interprets having the right to sample any day as long as the day was within 60 days of July 1st. However, within approximately three weeks from July 1, 2001 and well within the 60-day period allowed until the first test was to be initiated, the contractor began filling the new ponds and as a result, the plant discharge ceased and was no longer available for sampling.

It is significant to note that Malvern did not know that the effluent would cease within three weeks of July 1 because construction was still in progress according to a schedule outside the control of Malvern. It was reasonable for Malvern to wait to perform a toxicity test on the effluent. The discharge on July 1st was not representative of the expected discharge from the new treatment plant. The effluent abruptly ceased after July 1st because of construction and a sample taken after the discharge ceased would have been timely. It should be noted that if Malvern initiated the toxicity testing for this effluent, a failure of the test was likely. Malvern did not send in the first discharge available since it was hoped a discharge closer to the end of the 60 days would be more representative of the new plants effluent.

As explained in previous correspondence from Malvern in this matter, a failure of the test on the construction effluent would only serve to place Malvern in a position to expend major funds to unnecessarily study a failure that the new wastewater treatment and disinfection facility would correct. Malvern felt and feels the cost of such testing (\$30,000 - \$50,000) could be better spent to address real problems in the sewer collection system rather than to study a failure caused by construction and cured by completion.

The Department fully recognized the futility of performing toxicity tests on the pre-construction effluent by postponing the biomonitoring requirement until after construction was scheduled for completion. It should also be noted that, had the Contractor completed the project as originally required, a post-construction effluent would likely have been available during the third quarter for testing.

- Finding of Fact No. 5

The permit also requires that monthly Discharge Monitoring Reports (DMRs) be submitted to ADEQ on or before the 25th of the month following the close of the monitoring period. The October 2001 DMR, required to be posted to ADEQ by November 25, 2001 was received by ADEQ, postmarked December 14, 2001.

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25% COTTON FIBER

RESPONSE:

Malvern acknowledges the correctness of the finding of fact. Glen Christian, Wastewater Superintendent, overlooked mailing the October 2001 report as stated. As soon as this was brought to his attention, Mr. Christian provided the report to ADEQ. The report was 20 day late. Because the construction was still in progress and the new wastewater ponds were still filling, there was no discharge to report on the October DMR. There was no intent to deceive ADEQ. During the 15 years of employment with Malvern Water Works, Mr. Christian has been very conscientious about supplying DMRs on time. In fact, I am not aware of any other time when he failed to provide the DMRS on time.

Malvern acknowledges a technical violation and is sincerely sorry for the violation. Mr. Christian has been counseled and a new tickler system has been developed to prevent another oversight that would result in a violation.

- Finding of Fact No. 6

Violations of the permit's effluent character limits since July, 2000 are as follows:.....

RESPONSE:

Malvern acknowledges the technical violations and openly reported the violations to ADEQ. These violations are not surprising. In fact, Malvern predicted such violations in a letter to the Department dated June 1, 2000 wherein Malvern petitioned the Department for temporary relief from the permit limits for the duration of construction. This was a request that the Department had the authority to grant. The Department's decision not to grant Malvern's request virtually ensured that the cited violations would occur and placed Malvern in an impossible position. Malvern notes the Department did agree to provide some relief but the relief proposed by the Department would still have caused violations that were impossible to prevent during construction.

The violations were a consequence of construction, and the construction was necessary for long-term permit compliance. Malvern made the decision to make long-term improvements to protect the environment. The alternative was to fail to address the long-term solution to Malvern's discharge. Malvern is confident that ADEQ must

support long-term sewer plant improvements, even if construction causes short-term minimal effects on discharge.

- Finding of Fact No. 7

The permit requires that the Permittee report to ADEQ, all unpermitted discharges of wastewater, that endanger health or the environment, within 24 hours of discovery.

RESPONSE:

Malvern denies a violation occurred in this instance. Malvern Water Works acknowledges this requirement.

- Finding of Fact No. 8

"It was reported to ADEQ that on December 7, 2001, a repair crew working for the Malvern Water Works responded to a service call at 413 North Laurel Street. Wastewater was found to be backing up into the residence into the tub, and via the toilet, throughout the house. The work crew diverted the flow from the house to the yard. The work crew vacuumed some of the wastewater and dumped it into the yard as well. After partially cleaning up the wastewater, the work crew departed. This unpermitted discharge was not reported to ADEQ."

RESPONSE:

Malvern denies a violation occurred in this instance. The discharge was reported orally on the next working day, Monday, December 10, 2001. The oral report was followed up with a written report within the five (5) days. No attempt was made to avoid reporting the discharge. A There was no effort of cover up the discharge. The incident was not the result of any action or negligence on the part of Malvern Water Works. Malvern Water Works responded to the incident as quickly and efficiently as possible.

On December 7, 2001 heavy rains fell in Malvern at a time when previous rainfall (12" over a two-week period) had already saturated the ground. While Malvern Water Works has corrected a number of inflow and infiltration problems, there are still areas that continue to allow ground water to infiltrate the system. It is our opinion that this incident was not caused by inflow and infiltration.

On the morning of December 7, the resident at 413 North Laurel Street called the Malvern Water Works office reporting the overflow as stated above. The office promptly called the most available personnel to respond to the emergency. The work crew responded within 10 minutes. In order to stop the continued overflow within the house, the clean-out cap was removed to divert the flow onto the yard.

The crew then proceeded to locate the blockage in the sewer main. The blockage was caused by a large amount of congealed grease that blocked the line just below the service line for 413 Laurel Street. There are 42 houses upstream from 413 Laurel. The five manholes above the residence range from 5' to 10'-6" deep. After the blockage was cleared the flow in the line returned to normal, even with the excessive rainfall and groundwater. This would seem to indicate that the blockage, caused by the grease plug, had been present in the main for some time and allowed a great deal of wastewater to accumulate in the upstream part of the system. When the blockage moved down the sewer main it lodged just below the service main for 413 Laurel Street. The amount of head generated by the upstream system caused the wastewater to follow the path of least resistance, into the house at 413 Laurel Street.

With great empathy for the owners and their tenant, a second work crew proceeded to assist them inside the house by using a wet-dry vacuum to remove the wastewater throughout the house. The waste was transferred to the yard temporarily. As noted above, wastewater was already in the yard due to the first crew diverting the flow to the yard in order to prevent additional damage to the house. The crews had no obligation to provide such assistance other than trying to be a good neighbor. They removed as much of the wastewater from the house as possible before leaving.

The first crew, who had also responded to several other calls that day, returned with a vacuum truck and proceeded to thoroughly clean and remove the overflow wastewater from the yard. Additionally, the crew used shovels and a wheelbarrow to remove the affected soil from the site. The overflow occurred on Friday December 7, 2001. The overflow was reported to Deb Gerst on the next working day, which was Monday, December 10, 2001.

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The story provided to ADEQ by the owners is inaccurate. Every conceivable agency and consumer advocate group has been contacted by the owners to obtain damages from Malvern Water Works. The information provided by the owner has been less than forthcoming. It is apparent that the party who provided you the account of the incident wished to color the circumstances as negatively as possible. In the future, I would encourage that such reports be investigated in person by the Department rather than assume the worst about Malvern Water Works.

Malvern Water Works responded as quickly as could be expected. Malvern Water Works responded compassionately. Malvern Water Works followed through on the clean up of an unfortunate overflow. And it is our position that Malvern Water Works did properly report the discharge and did appropriately clean up the effluent.

CONCLUSION

As I stated in the overview, one of the first things I did as General Manager, was to request a meeting with you regarding the two Administrative Orders that ADEQ had placed on Malvern Water Works. I was absolutely unfamiliar with the history of the situation. I asked what Malvern had to do to comply with the requirements of ADEQ. You responded that Malvern had to address its Inflow and Infiltration problems to stop weather related overflows and that Malvern had to disinfect its wastewater before discharging back to the Ouachita River.

I still remember that the tone of the meeting was very negative toward Malvern. I now better understand why ADEQ has such an attitude. I have still felt this chill toward Malvern. ADEQ still refers to the 2 years of litigation by the previous manager during any significant contact about our activities. When we informed ADEQ that it would be impossible to meet the deadline for completing the work required to accomplish compliance due to delays caused by agencies reviewing plans and other delays of financing issues, ADEQ refused to allow any more time. I am certain that attitude was due to Malvern's history of inaction and litigation. That deadline was established before I became manager of Malvern Water Works and as far as I can tell, it was set without consideration of reasonable construction deadlines.

Nonetheless, Malvern immediately set about securing a \$6.5 million loan through Construction Assistance (then part of ADEQ) in order to build a new wastewater treatment plant, study our sewer system and make

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25% COTTON FIBER

improvements designed to address Inflow and Infiltration. All project activities took place according to a schedule established almost five years ago. Malvern **never** failed to meet a project deadline when Malvern was in control of the schedule. Malvern has made every possible effort to achieve compliance and to do so on time.

In order to reemphasize our commitment as briefly described in the overview, I would like to provide additional detail about some of our latest efforts. Malvern Water Works, in order to address its Inflow and Infiltration problems established an Inflow and Infiltration crew that specifically works on locating and repairing defects in the sewer system. Malvern's initial inflow and infiltration plan was to place two (2) employees full-time on inflow and infiltration problems. Malvern soon doubled its effort and now has a full-time crew of (4) employees to address inflow and infiltration issues. The crew is trained to operate a vacuum truck for line cleaning and a Closed Circuit Television system for inspecting sewer mains for defects. Literally thousands of hours have been spent over the last 10 years locating manholes that were unfortunately covered over during the previous 20 to 30 years. We regularly smoke test our system as well as inspect and repair manholes. We have devised a five-year plan for inspecting the 75 miles of sewer mains in our system on an ongoing basis. In 2001 we spent \$227,000, above and beyond the money borrowed from Construction Assistance, on Cured in Place Pipe Repair to correct defects in the most severe sources of inflow and infiltration. That is a small portion of the time and money spent on inflow and infiltration issues over the last 10 years.

Most recently, I contacted ADEQ regarding the Chronic Biomonitoring issue. Upon my request to meet with ADEQ in person to discuss the matter, you declined to meet. Our subsequent efforts to get clarification of the problem from your office was not successful. According to the CAO transmittal letter dated January 29, 2002, "*The policy of the Arkansas Department of Environmental Quality (ADEQ) is to seek compliance with the laws and regulations it administers through **cooperative** efforts.....*" (emphasis added). I understand why long-term employees doubt the willingness of Malvern to act cooperatively with ADEQ. I am earnestly asking ADEQ to give Malvern Water Works the chance to prove Malvern's cooperative attitude before dismissing any chance to meet and discuss compliance issues.

Construction on the new sewer plant and disinfection facility is now complete and Malvern is compliant with its permit. It is Malvern's position that nothing productive is to be accomplished by the Department's issuing this CAO. The CAO serves no useful purpose. The CAO goals have

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already been accomplished and were accomplished well before the CAO was proposed. Consequently, by this letter it is requested that the proposed CAO be withdrawn and that Malvern Water Works and ADEQ meet to discuss the remaining issues.

Malvern feels and hopes that it has demonstrated exemplary cooperation in its efforts to achieve compliance. Malvern has demonstrated its commitment to meeting the terms of its permit by constructing a sewer treatment plant and disinfection facility designed to meet needs for the next 20 years and by establishing an ongoing inflow and infiltration program. Malvern Water Works is working hard to turn its system in a positive direction in a short amount of time. Hopefully, the commitment to the future will not be overshadowed by the sins of the past.

Respectfully,

A handwritten signature in blue ink, appearing to read "Monty Ledbetter", with a long horizontal flourish extending to the right.

Monty Ledbetter, Manager
Malvern Water Works

ML/hh

Cc: Mr. Glen Christian, Malvern Water Works Wastewater
Superintendent
Mr. George Hopkins, Attorney at Law
Malvern Water and Sewer Commission
Mr. Larry Gaddis, Crist Engineers.
Mayor Steve Northcutt, Mayor of Malvern

ADEQ

ARKANSAS
Department of Environmental Quality

January 29, 2002

Mr. Glen Christian
Malvern Water Works
PO Box 638
Malvern, AR 72104

RE: NPDES Permit No AR0034126, Consent Administrative Order (CAO)

Dear Mr. Christian:

In the last year and a half, there have been several serious violations of NPDES Permit requirements. These are in fact, violations of the Federal Clean Water Act and the Arkansas Water and Air Pollution Control Act, and as such, are subject to fines up to \$10,000 per violation.

The policy of the Arkansas Department of Environmental Quality (ADEQ) is to seek compliance with the laws and regulations it administers through cooperative efforts and to allow suspected violators to resolve violations through informal means before initiating more formal enforcement action.

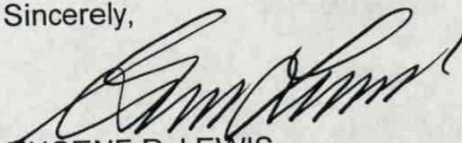
The enclosed CAO lists the reported violations of your permit and outlines the steps you must take to achieve compliance with the terms of your permit. The proposed civil penalty in the amount of \$4000 is our offer to settle the violations outlined in the CAO and has been approved by the Director.

If, after careful review and consultation you wish to accept the terms of the CAO, please sign, date and return the entire CAO by **February 13, 2002**. It will then be signed by our Director and you will be provided with a final copy along with information about the effective date and the public notice process.

Failure to contact us by the above date will constitute rejection of our settlement offer and we will be required to proceed with unilateral enforcement action to settle the issues.

Thank you for your attention to this matter. Should you have any questions, feel free to contact me at 501-682-0631 or you may e-mail me at lewis@adeq.state.ar.us.

Sincerely,



EUGENE P. LEWIS
Enforcement Supervisor
NPDES Enforcement Section

NPDES COMPLIANCE FILES

NPDES # AR0034126

DMR'S L

NCR L

CORRESPONDENCE

Coded

WATER DIVISION

01/18/02
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*AFIN
30-00040*

*fs Matters Report (w/Notes)

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|--------|---------------------|----------|----------|
| Matter | Malvern Water Works | Case # | M02021 |
| U1 | CAO | Attorney | |
| U2 | AFIN No. 3000040 | Casecode | NPDES |
| U3 | | Court | |
| U4 | / / | Opened | 01/18/02 |

Temple

01/18/02 AK : Malvern Water Works is located in Hot Springs County, and has violated FCB consistently since July 2000. They have been less than pro-active in their approach to NPDES Requirements. Civil penalty \$4000. ***

01/18/02
File routed to Attorney Supervisor for assignment./ak

Number of Matters: 1