

ADEQ

ARKANSAS
Department of Environmental Quality

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

91 7199 9991 7030 4903 3182

June 15, 2011

Mike Cook
Nebo Residuals Services, Inc.
568 Fox Meadows Lane
Fayetteville, AR 72704

RE: Permit Number 5110-W; AFIN 75-00481

Dear Mr. Cook:


Enclosed are the draft public notice, Statement of Basis, and the draft permit produced by Arkansas Department of Environmental Quality under the authority of the Arkansas Water and Air Pollution Control Act. The final permit will be mailed to you when the Department has made a final permit decision.

The enclosed public notice will be published by ADEQ in the newspaper of general circulation. An invoice for the cost of publishing the public notice and proof of publication will be sent to you by the advertising newspaper. The permittee must send proof of publication and payment to the address below as soon as possible but no later than 30 days after its publication. Until this Department receives proof of publication of the public notice, no further action will be taken on the issuance of your no discharge permit.

Comments must be received at ADEQ prior to the close of the public comment period as shown in the enclosed public notice. The public comment period will begin on the date of publication and will end no sooner than 30 days from that date. Once a final permit is issued by the Director and becomes effective, the permittee must comply with all terms and conditions of the permit, or be subject to enforcement actions for any instances of noncompliance during the duration of the permit, usually five (5) years. Consequently, it is imperative that you, as the applicant, thoroughly review the enclosed documentation for accuracy, applicability, and your ability to comply with all conditions therein.

Should you have any questions concerning any part of the permit, please feel free to contact Andy Nanneman of the Permits Branch at (501) 682-0647.

Sincerely,



Steven L. Drown
Chief, Water Division

SD:an

Enclosure

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

5301 NORTHSHORE DRIVE / NORTH LITTLE ROCK / ARKANSAS 72118-5317 / TELEPHONE 501-682-0744 / FAX 501-682-0880

www.adeq.state.ar.us

PUBLIC NOTICE OF DRAFT NO DISCHARGE PERMIT
PERMIT NUMBER 5110-W
AFIN 75-00481

This is to give notice that the Permits Branch of the Water Division of the Arkansas Department of Environmental Quality (ADEQ), 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317 at telephone number (501) 682-0648, proposes a draft issuance of the permit for which an application was received on 1/26/2011 for the following applicant under the Arkansas Water and Air Pollution Control Act.

Applicant: Nebo Residuals Services, Inc., 568 Fox Meadows Lane, Fayetteville, AR 72704. The land application sites are located near Dardanelle, AR in Yell County. For detailed locations of the land application sites please refer to the draft permit and the waste management plan, both may be located by searching the permit number at the following link:

<http://www.adeq.state.ar.us/home/pdssql/pds.asp>

This permit is for the land application of post-processing food waste, residuals, and DAF skimmings; post processing animal and pet food waste; DAF skimmings and lagoon residuals from poultry processing plants; poultry blood, grease trap waste, feed and grain mill waste; hatchery waste; and beneficial use pretreatment waste onto permitted fields in Yell County, AR.

The closest streams to the land application sites are Luther Lake, Smiley Bayou, Mill Creek, Gibson Lake, Holla Bend Cutoff and the Arkansas River in stream segment 3F of the Arkansas River basin.

ADEQ's contact person for submitting written comments, requesting information regarding the draft permit, or obtaining a copy of the permit and the Statement of Basis is Andy Nanneman, at the above address and telephone number, or at Water-Draft-Permit-Comment@adeq.state.ar.us. For those with internet access, a copy of the proposed draft permit may be found on the ADEQ's website at www.adeq.state.ar.us.

The last day of the comment period is 30 days after the publication date. If the last day of the comment period is a Saturday, Sunday or legal holiday, the public comment period shall expire on the next day that is not a Saturday, Sunday or legal holiday. For information regarding the actual publication date along with the actual date and time the comment period will end, please contact Andy Nanneman at the above address and telephone number or by email at Water-Draft-Permit-Comment@adeq.state.ar.us. The permit will become effective approximately two weeks after the close of the comment period unless comments are received and/or a public hearing is requested prior to the close of the comment period requiring a delay of the effective date. Comments and public hearing procedures may be found at Regulation No. 8. All persons, including the permittee, who wish to comment on ADEQ's draft decision to issue the permit must submit written comments to ADEQ, along with their name and mailing address. After the public comment period, and public hearing, if one is held, ADEQ will issue a final permitting decision. A public hearing will be held when ADEQ finds a significant degree of public interest. ADEQ will notify the applicant and each person who has submitted written comments or requested notice of the final permitting decision. Any interested person who has submitted comments may appeal a final decision by ADEQ in accordance with the Regulation No. 8 (Administrative Procedures).

STATEMENT OF BASIS

This Statement of Basis is for information and justification of the permit limits only and is not enforceable. This draft permit decision is for issuance of a no discharge operation under draft permit number 5110-W and AFIN (file) number 75-00481.

1. PERMITTING AUTHORITY

Arkansas Department of Environmental Quality
Water Division, Permits Branch
5301 Northshore Dr.
North Little Rock, Arkansas 72118-5317

2. APPLICANT

Nebo Residuals Services, Inc.
568 Fox Meadows Lane
Fayetteville, AR 72704

3. FACILITY/WASTE DESCRIPTION

This proposed permit is for the land application of post-processing food waste, residuals, and DAF skimmings; post processing animal and pet food waste; DAF skimmings and lagoon residuals from poultry processing plants; poultry blood, grease trap waste, feed and grain mill waste; hatchery waste; and beneficial use pretreatment waste onto permitted fields in Yell County, AR. See Part II of the permit for the individual field locations in Yell County.

4. RECEIVING STREAM LOCATION

The closest streams to the land application sites are Luther Lake, Smiley Bayou, Mill Creek, Gibson Lake, Holla Bend Cutoff and the Arkansas River in stream segment 3F of the Arkansas River basin. The Arkansas River is the closest stream to land application sites GK-1,2,3 and CM-1,2 and is listed in the 2008 303(d) list as impaired for Dissolved Oxygen. Best management practices at the land application sites, buffer distances, and proper application techniques will minimize the migration of pollutants to the water body.

5. PREPARED BY

The permit was prepared by:

Andy Nanneman
Permit Engineer
Permits Branch, Water Division
501-682-0647
E-mail: nanneman@adeq.state.ar.us

6. APPLICANT ACTIVITY

Under the standard industrial classification (SIC) code 4953 or North American Industry Classification System (NAICS) code 56299, the applicant activities are for waste management services.

7. WASTE APPLICATION METHOD

The liquid residuals will be transported to the application sites in sealed tanker trucks. The residuals will be transferred by vacuum to an application buggy pulled by a farm tractor. In most cases, the residuals will be subsurface injected to a depth of 8 to 12 inches. In some cases, the residuals may be topspread but only if this can be done without creating a nuisance condition of posing a threat to human health or the environment.

8. TOTAL PERMITTED ACREAGE

1,720 acres are proposed for land application sites according to the waste management plan. The annual application of wastes is limited by the plant available nitrogen (PAN) equation and the nitrogen uptake rate of the cover crop, Condition No. 3 of Part II of the Permit. Nebo Residuals Services, Inc. is a company that performs the service of collecting and land applying beneficial wastes. The applicant does not currently possess any of the waste to be applied, consequently there have been no waste analysis to this date. When the applicant obtains waste to land apply it must be analyzed in accordance with Part I Table I of the permit prior to application. The annual application rates will be governed by the nitrogen contents of the waste and the nitrogen uptake rate of the cover crop of the land application site.

9. LIST OF ALL LAND APPLICATION SITES

See Permit Condition No. 4 of Part II.

10. BASIS FOR PERMIT CONDITIONS

The Arkansas Department of Environmental Quality has made a tentative determination to issue a permit for the no-discharge facility as described in the application and waste management plan. Permit requirements and conditions are based on regulations pursuant to the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended, Ark. Code Ann. § 8-4-101 *et seq* and Ark. Code Ann. § 8-4-201 *et seq*).

Specific permit conditions and limits and their sources are listed as follows:

Limits and reporting requirements for arsenic, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc in the waste

The associated limits and cumulative pollutant loading rate limits (CPLRs) are adopted from EPA's risk assessment Federal Part 503 rule that governs the land application of biosolids. This assessment considered 14 different pathways of exposure to highly exposed individuals, including humans, animals (including small organisms) and plants. These limits minimize the potential for the accumulation of metals in soils to concentrations that could have adverse effects on the environment.

Reporting requirements for percent total solids of the waste

This parameter is required to convert between a wet and dry basis.

Reporting requirements for all nitrogen compounds in the waste

These concentrations are required to calculate the plant available nitrogen to comply with Part II, Condition No. 3.

Reporting requirements for total phosphorus and total potassium in the waste

These constituents are required for plant growth and are monitored to ensure crop nutrients are provided. Also, phosphorus may be the limiting nutrient in the Nutrient Surplus Area as delineated by the Arkansas Natural Resource Commission.

Reporting requirements for pH of the soil

Soil pH must be reported to ensure compliance with Part I, Table II.

Reporting requirements for arsenic, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc in soils

The list of metal cations was adopted from 40 CFR Part 503 for the land application of biosolids. Limits were not established due to the variability of analyzing the concentrations of these metals. Reporting requirements are included to verify that metals from land application of waste or other sources are not being applied at a rate that would cause accumulation of metals to levels that could have adverse effects on the environment. If results indicate that soil concentrations have increased, the Department may require cessation of land application activities, further testing, or remediation activities.

Reporting requirements for conductivity, cation exchange capacity, nitrate-nitrogen, phosphorus, potassium, and magnesium in soils

These parameters are indicators of soil quality. The chemical condition of soil affects soil-plant relations, water quality, buffering capacities, availability of nutrients and water to plants and other organisms, mobility of contaminants, and some physical conditions. (USDA Natural Resources Conservation Service "Indicators for Soil Quality Evaluation" April 1996.) Reporting requirements are included to verify that problems from over-application of wastes or other sources are not occurring. If results indicate that soil concentrations have increased, the Department may require cessation of land application activities, further testing, or remediation activities.

Oil & Grease

These limits are used to limit the amount of oil and grease applied to approximately one inch, which is a quantity that generally can be metabolized by the soil.

Debris limit of 0.5 inches

Solid material is not allowed to be land applied under this permit.

Maximum slope for the land application of waste is 12%

Topography of the land application area affects the potential for runoff and erosion. The land application limits for slopes was adopted from "Wastewater Engineering: Treatment and Reuse, 4th Edition," Table 14-51. For slopes up to 6%, liquid waste may be surface applied or subsoil injected. For slopes greater than 6% and up to 12%, liquid wastes must be subsoil injected. Liquid wastes shall not be applied to slopes greater than 12%.

Buffer distances

Minimum buffer distances are required between land application areas and areas that may be vulnerable to water pollution and to minimize the risk of nutrients or pollutants from leaving the field and reaching surface waters. Buffer distances were adopted from APC&EC Regulation 5.406

Standard Conditions

The conditions applicable to all no-discharge permits have been included in this permit based on best engineering judgment.

11. PERMIT COMPLIANCE

Compliance is required on the effective date of the permit.

12. SOURCES

The following Sources were used to draft the permit:

- a. APC&EC Regulation No. 2, Water Quality Standards for Surface Waters of the State of Arkansas,
- b. APC&EC Regulation No. 8, Administrative Procedures, as amended.
- c. APC&EC Regulation No. 5, Animal Waste Management Systems, as amended.
- d. APC&EC Regulation No. 9, Fee System for Environmental Permits, as amended.
- e. 40 CFR Part 503 for land application of biosolids.
- f. ACT 472 of 1949, as amended, Arkansas Water and Air Pollution Control Act.
- g. Integrated Water Quality and Assessment Report (305(b) Report)
- h. Application No. 5110-W received 1/26/2011.

13. PUBLIC NOTICE

The public notice describes the procedures for the formulation of final determinations and shall provide for a public comment period of 30 days. During this period, any interested persons may submit written comments on the permit and may request a public hearing to clarify issues involved in the permitting decision. A request for a public hearing shall be in writing and shall state the nature of the issue(s) proposed to be raised in the hearing.

The ADEQ will notify via an e-mail public notice of the permit to the Corps of Engineers, the U.S. Fish and Wildlife Service, the Arkansas Game and Fish Commission, the Department of Arkansas Heritage, the EPA, and the Arkansas Department of Health for review and comments.

14. POINT OF CONTACT

For additional information, contact

Andy Nanneman
Engineer
Permits Branch, Water Division
5301 Northshore Drive
North Little Rock, AR 72118-5317
501-682-0647
E-mail: nanneman@adeq.state.ar.us

DRAFT

Permit No. 5110-W
AFIN 75-00481

**AUTHORIZATION FOR A NO-DISCHARGE WATER PERMIT UNDER THE
ARKANSAS WATER AND AIR POLLUTION CONTROL ACT**

In accordance with the provisions of the Arkansas Water and Air Pollution Control Act
(Ark. Code Ann. § 8-4-101 *et seq*)

Nebo Residuals Services, Inc.
568 Fox Meadows Lane
Fayetteville, AR 72704

is authorized to land apply industrial waste, as defined in Part II.1 for beneficial use on sites
listed in Part II.4 in Yell County, AR.

The closest streams to the land application sites are Luther Lake, Smiley Bayou, Mill Creek,
Gibson Lake, Holla Bend Cutoff and the Arkansas River in stream segment 3F of the Arkansas
River basin.

Operation shall be in accordance with all conditions set forth in this permit. In accordance with
Part III.23, the permittee must reapply for permit coverage at least 180 days prior to the
expiration date.

Effective Date:

Expiration Date:

Steven L. Drown
Chief, Water Division
Arkansas Department of Environmental Quality

Issue Date

PART I
PERMIT REQUIREMENTS

LIMITATIONS AND MONITORING REQUIREMENTS:

The following tables detail the constituent limits, monitoring frequencies, and the requirements for reporting results to ADEQ for each respective parameter listed in the table heading.

TABLE I				
Waste Analysis, Reporting, and Record Keeping				
Parameter	Ceiling Concentrations (mg/kg)	Cumulative Pollutant Loading Rate (lb/ac)	Monitoring Frequency	Reporting
Arsenic	75	37	Prior to application	Annually by May 1
Cadmium	85	35	Prior to application	Annually by May 1
Copper	4300	1350	Prior to application	Annually by May 1
Lead	840	270	Prior to application	Annually by May 1
Mercury	57	15	Prior to application	Annually by May 1
Molybdenum	75	N/A	Prior to application	Annually by May 1
Nickel	420	378	Prior to application	Annually by May 1
Selenium	100	90	Prior to application	Annually by May 1
Zinc	7500	2520	Prior to application	Annually by May 1
Parameter	Maximum Limits	Reporting Units	Monitoring Frequency	Reporting
Total Solids	Report	Percentage (%)	Prior to application	Annually by May 1
Nitrate Nitrogen	Report	mg/L	Prior to application	Annually by May 1
Nitrite Nitrogen	Report	mg/L	Prior to application	Annually by May 1
pH	Report	S.U.	Prior to application	Annually by May 1
Total Kjeldahl Nitrogen	Report	mg/L	Prior to application	Annually by May 1
Oil & Grease	30,000 gallons (total volume) of grease trap waste per acre per year, or 20,000 lbs of Oil and Grease per acre per year, whichever is less	lbs/ac	Prior to application	Annually by May 1
Total Phosphorus	Report	mg/L	Prior to application	Annually by May 1
Total Potassium	Report	mg/L	Prior to application	Annually by May 1
Ammonia Nitrogen	Report	mg/L	Prior to application	Annually by May 1
Total Volume Applied	Report	gallons	Prior to application	Annually by May 1
Application Rate	*Depends On Crop	lb/ac	Prior to land application	Maintain for records
Debris	0.5	inches	During land application	Maintain for records

*The PAN will be calculated prior to application.

TABLE II

Soils

Parameter	Reporting Units	Monitoring Frequency ¹	Reporting
Conductivity	µmhos/cm	Prior to application	Annually by May 1
Cation Exchange Capacity	meq/100g	Prior to application	Annually by May 1
Nitrate-Nitrogen	mg/kg	Prior to application	Annually by May 1
Phosphorus	mg/kg	Prior to application	Annually by May 1
pH ²	S.U.	Prior to application	Annually by May 1
Potassium	mg/kg	Prior to application	Annually by May 1
Magnesium	mg/kg	Prior to application	Annually by May 1
Arsenic	mg/kg	Once every five (5) years	Submit with Renewal Application
Cadmium	mg/kg	Once every five (5) years	Submit with Renewal Application
Copper	mg/kg	Once every five (5) years	Submit with Renewal Application
Lead	mg/kg	Once every five (5) years	Submit with Renewal Application
Mercury	mg/kg	Once every five (5) years	Submit with Renewal Application
Molybdenum	mg/kg	Once every five (5) years	Submit with Renewal Application
Nickel	mg/kg	Once every five (5) years	Submit with Renewal Application
Selenium	mg/kg	Once every five (5) years	Submit with Renewal Application
Zinc	mg/kg	Once every five (5) years	Submit with Renewal Application

¹ At a minimum one representative sample must be analyzed for each 40 acres of each land application site.

² If the resulting pH is 5.7 or lower, lime must be applied in accordance with the University of Arkansas Cooperative Extension Service.

Part II
Specific Conditions

1. This permit is for the land application of industrial waste (post-processing food waste, residuals, and DAF skimmings; post processing animal and pet food waste; DAF skimmings and lagoon residuals from poultry processing plants; poultry blood, grease trap waste, feed and grain mill waste; hatchery waste; and beneficial use pretreatment waste) onto permitted fields in Yell County, AR.
2. The waste disposal system shall be operated in accordance with the January 11, 2011 Waste Management Plan (WMP) approved by the Department. This permit shall supersede any limit, monitoring requirement, design, or operational standard described in the WMP.
3. Plant Available Nitrogen (PAN) shall not be applied at a rate exceeding the annual nitrogen uptake of the crop or allowed to exceed the site specific rate approved by the Department. The PAN shall be calculated using the following equations:

Surface applied waste:	$PAN = 0.3(TKN - NH_3) + 0.5NH_3 + NO_3 + NO_2$
Incorporated or subsurface injected waste:	$PAN = 0.3(TKN - NH_3) + NH_3 + NO_3 + NO_2$

4. All land application sites are previously permitted, and are as follows:

Landowner	Field No.	Section	Township	Range	Latitude	Longitude	Acres
Charlie Chivers	CC-1	35	6N	20W	35° 07' 56"	93° 06' 06"	50
Charlie Chivers	CC-2	27/34	6N	20W	35° 08' 00"	93° 06' 30"	145
Charlie Chivers	CC-3	27/34	6N	20W	35° 08' 19"	93° 06' 52"	110
Charlie Chivers	CC-4	28	6N	20W	35° 08' 22"	93° 07' 07"	70
Jeff Hale	JH-1	35	6N	20W	35° 07' 42"	93° 05' 53"	70
Jeff Hale	JH-2	34	6N	20W	35° 07' 27"	93° 06' 28"	63
Fred Hale	FH-1	28	6N	20W	35° 08' 22"	93° 07' 29"	65
Fred Hale	FH-2	34	6N	20W	35° 08' 03"	93° 07' 08"	35
John Hickey	Hickey 1	33	6N	19W	35° 07' 44"	93° 01' 33"	20
John Hickey	Hickey 2	33	6N	19W	35° 07' 48"	93° 01' 14"	150
George Keys	GK-2	22	6N	20W	35° 09' 39"	93° 06' 34"	80
George Keys	GK-3	23	6N	20W	35° 09' 39"	93° 05' 48"	35
Chris Mann	CM-1	5	5N	19W	35° 06' 42"	93° 02' 35"	200
Chris Mann	CM-2	5	5N	19W	35° 07' 00"	93° 02' 37"	25
James Miller	JM-1	3	5N	20W	35° 06' 15"	93° 07' 00"	125
James Miller	JM-2	10	5N	20W	35° 05' 50"	93° 07' 15"	30
Total acreage after subtraction of buffer zones:							1273

5. Surface applied waste must be evenly distributed over the entire application area.
6. Liquid wastes may be surface applied on land slopes up to 6%, and subsoil injection of liquid waste may be applied on land slopes up to 12%. Wastes may not be applied to land with slopes greater than 12%; these areas must be flagged prior to land application.

7. Land application is prohibited when the soils are saturated; frozen; covered with ice or snow; during precipitation events; or when precipitation is imminent (50% chance of precipitation predicted by the nearest National Weather Service station).
8. The permittee shall not cause or contribute to the taking of life or the destruction or adverse modification of the known critical habitat of any endangered or threatened species of plant, fish or wildlife.
9. The permittee shall take all necessary measures to reduce obnoxious and offensive odors. Equipment shall be maintained and operated to prevent spillage and leakage.
10. Disposal of waste in a flood plain shall not restrict the flow of the base flood, reduce the temporary storage capacity of the flood plain, or result in a washout of solid waste, so as to pose a hazard to human life, wildlife or land and water uses.
11. Waste shall not be spread within: 50 feet of property lines and rock outcrops; 100 feet of lakes, ponds, springs, wetlands, streams, and sinkholes; 200 feet of drinking water wells; 300 feet of occupied buildings or bodies of water classified as an "extraordinary resource body of water." All boundaries have to be flagged prior to land applying.
12. Annual reports of the previous year shall be sent to the Department and to the owner of the land receiving waste prior to May 1, which must include the following:
 - A. land application dates;
 - B. land application locations;
 - C. quantities of waste applied in dry tons per acre per year and in gallons per acre per year;
 - D. methods of disposal;
 - E. amounts of nutrients applied;
 - F. total elements added (in that particular year) in lbs per acre;
 - G. total elements applied to date;
 - H. copies of the waste and soil analyses.

The annual reports shall be submitted to the following address:

Arkansas Department of Environmental Quality
Water Division, No Discharge Section
5301 Northshore Dr.
North Little Rock, Arkansas 72118
Fax (501) 682-0910

Or

Water-permit-application@adeq.state.ar.us

13. In the event that the Department determines that any land application site under this permit is permitted for land application under another Water Division permit the Department may void this permit.
14. Each land use agreement must be signed and dated by the land owner within one year of the date that the permit renewal application is received by the Department.

15. The permittee must submit the soil sample analyses for all permitted land application sites no later than 90-days from the effective date of the permit. Each soil sample will include at a minimum of one representative sample for each 40 acres permitted. Upon approval, the Department may issue a letter of authorization to commence land application. If soil sample analyses are found to be unacceptable, the Department will request additional information from the permittee. Land Application shall not commence until the permittee has obtained written approval from the Department.

Part III Standard Conditions

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949 as amended) and is grounds for civil and administrative enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

2. Penalties for Violations of Permit Conditions

The Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended) provides that any person who violates any provisions of a permit issued under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year, or a fine of not more than twenty-five thousand dollars (\$25,000) or both for each day of such violation. Any person who violates any provision of a permit issued under the Act may also be subject to civil penalty in such amount as the court shall find appropriate, not to exceed ten thousand dollars (\$10,000) for each day of such violation. The fact that any such violation may constitute a misdemeanor shall not be a bar to the maintenance of such civil action.

3. Permit Actions

A. This permit may be modified, revoked and reissued, or terminated for cause including, but not limited to the following:

- i. Violation of any terms or conditions of this permit;
- ii. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts;
- iii. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or
- iv. Failure of the permittee to comply with the provisions of Arkansas Pollution Control and Ecology Commission (APC&EC) Regulation No. 9 (Permit fees).

B. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or a notification of planned changes or anticipated noncompliance, does not suspend any permit condition.

4. Civil and Criminal Liability

Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of this permit or applicable state statutes or regulations which defeats the regulatory purposes of the permit may subject the permittee to criminal enforcement pursuant to the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

5. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Clean Water Act and Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

6. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation.

7. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

8. Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provisions of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9. Permit Fees

The permittee shall comply with all applicable permit fee requirements for no discharge permits as described in APC&EC Regulation No. 9 (Regulation for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to revoke this permit.

10. Proper Operation and Maintenance

- A. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.
- B. The permittee shall provide an adequate and trained operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.

11. Duty to Mitigate

The permittee shall take all reasonable steps to prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment, or the water receiving the discharge.

12. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of waste waters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering the waters of the State.

13. Reporting of Violations and Unauthorized Discharges

- A. Any violations to this permit must be reported to the Enforcement Branch of the Department immediately. Any leaks or seeps shall be reported to the Department and appropriately corrected. Any discharge from the fluids storage system such as an overflow, a broken pipe, etc., shall be immediately reported to the Department.
- B. The operator shall visually monitor and report immediately (within 24 hours) to the Enforcement Branch any unauthorized discharge from any facility caused by dike or structural failure, equipment breakdown, human error, etc., and shall follow up with a written report within five (5) days of such occurrence. The written report shall contain the following:
 - i. A description of the permit violation and its cause;
 - ii. The period of the violation, including exact times and dates;
 - iii. If the violation has not been corrected, the anticipated time expected to correct the violation; and
 - iv. Steps taken or planned to reduce, eliminate, and prevent the recurrence of the violation.
- C. Reports shall be submitted to the Enforcement Branch at the following address:

Arkansas Department of Environmental Quality
Water Division, Enforcement Branch
5301 Northshore Dr.
North Little Rock, Arkansas 72118
Fax (501) 682-0910

Or

Water-permit-application@adeq.state.ar.us

14. Penalties for Tampering

The Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended) provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under the Act shall be guilty of a misdemeanor and upon conviction thereof shall be subject to imprisonment for not more than one (1) year or a fine of not more than ten thousand dollars (\$10,000) or by both such fine and imprisonment.

15. Laboratory Analysis

All laboratory analyses submitted to the Department shall be completed by a laboratory certified by ADEQ under Ark. Code Ann. § 8-2-201 *et seq.* Analyses for the permittee's internal quality control or process control do not need to be performed by an ADEQ certified laboratory.

16. Retention of Records

The permittee shall retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the application for this permit for a period of at least 3 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Director at any time.

17. Record Contents

Records and monitoring information shall include:

- A. The date, exact place, time, and methods of sampling or measurements, and preservatives used, if any;
- B. The individuals(s) who performed the sampling or measurements;
- C. The date(s) the analyses were performed;
- D. The individual(s) who performed the analyses;
- E. The analytical techniques or methods used; and
- F. The measurements and results of such analyses.

18. Inspection and Entry

The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

- A. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- C. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit,
- D. Sample, inspect, or monitor at reasonable times, for the purposes of assuring permit compliance any substances or parameters at any location.

19. Planned Changes

The permittee shall give notice and provide the necessary information to the Director for review and approval prior to any planned physical alterations or additions to the permitted facility.

20. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

21. Transfers

The permit is nontransferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Act.

22. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying; revoking and reissuing; terminating this permit; or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit. Information shall be submitted in the form, manner and time frame requested by the Director.

23. Duty to reapply

If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. The complete application shall be submitted at least 180 days before the expiration date of this permit. The Director may grant permission to submit an application less than 180 days in advance but no later than the permit expiration date. Conditions of this permit will continue in effect past the expiration date pending issuance of a new permit, if:

- A. The permittee has submitted a timely and complete application; and
- B. The Director, through no fault of the permittee, does not issue a new permit prior to the expiration date of the previous permit.

24. Signatory Requirements

- A. All applications, reports or information submitted to the Director shall be signed and certified. All permit applications shall be signed as follows:
 - i. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - a. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including: having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - ii. For a partnership or sole proprietorship: by a general partner or proprietor, respectively; or
 - iii. For a municipality, State, Federal, or other public agency; by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:
 - a. The chief executive officer of the agency, or
 - b. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.
- B. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - i. The authorization is made in writing by a person described above.
 - ii. The authorization specified either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - iii. The written authorization is submitted to the Director.
- C. Any person signing a document under this section shall make the following certification: “I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering

the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

25. Availability of Reports

Except for data determined to be confidential under APC&EC Regulation 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Department of Environmental Quality. As required by the Regulations, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

26. Penalties for Falsification of Reports

The Arkansas Air and Water Pollution Control Act provides that any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this permit shall be subject to civil penalties and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Act 472 of 1949, as amended).

27. Applicable Federal, State, or Local Requirements

Permittees are responsible for compliance with all applicable terms and conditions of this permit. Receipt of this permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance policy, or regulation.

Part IV
Definitions

“**Act**” means the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 *et seq*) as amended.

“**Applicable water quality standards**” means all water quality standards to which a discharge is subject under the federal Clean Water Act and which has been (a) approved or permitted to remain in effect by the Administrator following submission to the Administrator pursuant to Section 303 (a) of the Act, or (b) promulgated by the Director pursuant to Section 303(b) or 303(c) of the Act, and standards promulgated under regulation No. 2, as amended, (regulation establishing water quality standards for surface waters of the State of Arkansas.)

“**Department**” means the Arkansas Department of Environmental Quality (ADEQ).

“**Director**” means the Director of the Arkansas Department of Environmental Quality.

“**APC&EC**” means the Arkansas Pollution Control and Ecology Commission.

“**Available Acreage**” means total acreage minus buffer zones

“**s.u.**” shall mean standard units.

QUARTERLY:

(1) is defined as a fixed calendar quarter or any part of the fixed calendar quarter for a non-seasonal effluent characteristic with a measurement frequency of once/quarter. Fixed calendar quarters are: January through March, April through June, July through September, and October through December; or

(2) is defined as a fixed three month period (or any part of the fixed three month period) of or dependent upon the seasons specified in the permit for a seasonal effluent characteristic with a monitoring requirement frequency of once/quarter that does not coincide with the fixed calendar quarter. Seasonal calendar quarters May through July, August through October, November through January, and February through April.

SEMI-ANNUAL:

is defined as the fixed time periods January through June, and July through December (or any portion thereof) for an effluent characteristic with a measurement frequency of once/6 months or twice/year.

ANNUAL or YEARLY

is defined as a fixed calendar year or any portion of the fixed calendar year for an effluent characteristic or parameter with a measurement frequency of once/year. A calendar year is January through December, or any portion thereof.