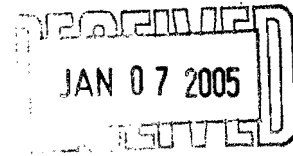


ADEQ

ARKANSAS
Department of Environmental Quality



January 5, 2005

Mr. Charles Nestrud
Chisenhall, Nestrud & Julian, P.A.
400 West Capitol, Suite 2840
Little Rock, Arkansas 72201

*Saura -
FYI
Jennifer*

RE: El Dorado Chemical Company
NPDES Permit No. AR0000752
AFIN/CSN # 70-0040
Proposed CAO

Dear Chuck:

As you may know, pursuant to Paragraph 1(b) of the Order and Agreement Section of Permit Appeal Resolution LIS No. 03-067, EDCC and ADEQ agreed to enter into a Consent Administrative Order (CAO) which requires EDCC to evaluate the presence of nitrates in the upper aquifer, to conduct a risk assessment, and to implement such remedial action as may be appropriate to address risks identified in the risk assessment. Enclosed please find a proposed CAO which addresses these issues as well as other pertinent issues remaining at the site.

Please contact me at your convenience to discuss this matter.

Sincerely,

Jennifer H. Tucker
Attorney Specialist

cc: Martin Maner, Chief, Water Division
Steve Drown, Asst. Chief, Water Division
Dennis Benson, Technical Assistance Manager, NPDES Enforcement
Ellen Carpenter, Chief, Legal Division

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:

EL DORADO CHEMICAL COMPANY
P.O. BOX 231
EL DORADO, ARKANSAS 71731-0231
EPA ID No. ARD001700657
NPDES PERMIT NO. AR0000752
AFIN/CSN # 70-0040

LIS NO. 05-

CONSENT ADMINISTRATIVE ORDER

This Consent Administrative Order (“CAO”) is issued pursuant to the authority of the Arkansas Water and Air Pollution Control Act, A.C.A. § 8-4-101 et seq., and the regulations promulgated thereunder.

The issues herein having been settled by agreement of EL DORADO CHEMICAL COMPANY (“EDCC”) and the Director of the Arkansas Department of Environmental Quality (“ADEQ”) it is hereby agreed and stipulated that the following FINDINGS OF FACT and ORDER AND AGREEMENT be entered herein.

FINDINGS OF FACT

1. EDCC is a corporation which manufactures sulfuric acid, nitric acid, ammonium nitrate fertilizers, and industrial grade ammonium nitrate products at its chemical manufacturing facility in El Dorado, Union County, Arkansas (hereinafter the “facility”).
2. EDCC previously operated a wastewater treatment system pursuant to Arkansas NPDES Permit Number AR0000752, issued effective July 1, 1990 (hereinafter the “1990 permit”).

3. In August 1998, ADEQ and EDCC entered into Consent Administrative Order LIS No. 98-119, which addressed various compliance issues at the facility. Paragraph 4 of the Order and Agreement Section of CAO LIS No. 98-119 ordered EDCC to implement interim measures to reduce the concentration of nitrates in the shallow groundwater, and to submit a work plan within sixty (60) days of the effective date of the Order for in situ bioremediation for all the existing groundwater monitoring wells which exhibited nitrate concentrations in excess of 10 mg/L.
4. EDCC submitted a Bioremediation Work Plan to address nitrates in groundwater as required by Paragraph 4(b) of the Order and Agreement Section of CAO LIS No. 98-119, however, based upon the bioremediation pilot study, the implementation of the in-situ bioremediation plan was terminated in March 2001.
5. In April of 2002, EDCC and ADEQ entered into CAO LIS No. 02-059, which addressed compliance issues at the facility. Paragraph 2 of the Order and Agreement Section of CAO LIS No. 02-059, amended the compliance schedules included in CAO LIS 98-119. Other amendments to the 1998 CAO include CAO LIS Nos. 98-119-1, 98-119-2, and 98-119-3.
6. On March 8, 2002, ADEQ issued a Draft Permit to renew the 1990 Permit. The Draft Permit was published for a 30-day comment period, and EDCC timely filed comments. ADEQ issued a Final Permit renewing the 1990 Permit on May 31, 2002 ("2002 Permit"). EDCC timely filed a Request

for Review and Adjudicatory Hearing and the matter was eventually settled by Permit Appeal Resolution (“PAR”) LIS No. 03-067, dated June 5, 2003.

7. Pursuant to Paragraph 1(b) of the Order and Agreement Section of PAR LIS No. 03-067, EDCC and ADEQ agreed to enter into a consent administrative order which requires EDCC to evaluate the presence of nitrates in the upper aquifer, to conduct a risk assessment, and to implement such remedial action as may be appropriate to address such risks as may be identified in the risk assessment.
8. By letter dated July 8, 2003, ADEQ memorialized EDCC’s agreement to commit to the following tasks: (1) A site characterization to install new monitoring wells, including perimeter monitoring down gradient from the plant and Lake Kildeer; (2) completion of a workplan for the site characterization; (3) the execution of a CAO between EDCC and ADEQ which includes time frames for groundwater monitoring and a plan for remediation; and (4) EDCC’s intention to implement a bioremediation test at monitoring wells MW-8 and MW-17 with “microbes/bacteria”.
9. Tasks 1 and 2 outlined in paragraph 8 above have been completed by EDCC as of the date of this Order. On April 7, 2004, ADEQ received EDCC’s 2003 Annual Report on Groundwater monitoring. On June 24, 2004, ADEQ received EDCC’s Geologic Investigation Report, otherwise known as the site characterization. ADEQ’s review of the June 24, 2004

report is currently pending, and a remedial action plan will be developed thereafter.

10. Resolution was reached concerning issues involving the 2002 Permit and EDCC's modified NPDES Permit Number AR0000752 became effective June 1, 2004 (the "Permit").
11. Since June 2004, EDCC has reported the following violations of the minimum pH limit at outfalls 006 and 007:

<u>DATE/OUTFALL</u>	<u>PARAMETER</u>	<u>REPORTED</u>	<u>PERMITTED</u>
June 2004/006	pH (minimum)	3.4 SU	6.0 SU
June 2004/007	pH (minimum)	2.7 SU	6.0 SU
August 2004/006	pH (minimum)	4.01 SU	6.0 SU
August 2004/007	pH (minimum)	3.85 SU	6.0 SU

ORDER AND AGREEMENT

1. All previous CAOs referenced herein are hereby incorporated by reference.
2. CAO LIS No. 98-119, with all amendments thereto, is hereby superceded by this Order.
3. The three (3) year implementation schedule established for all more stringent water quality based limits and technology based limits, as provided in CAO LIS No. 02-059, PAR LIS No. 03-067, and the modification Permit which became effective June 1, 2004, is hereby incorporated by reference and shall not be extended by ADEQ for any reason. Therefore, the deadline for compliance with all such water quality and technology based limits is June 1, 2007.

4. From the effective date of this Order until June 1, 2007, EDCC shall submit quarterly progress reports to ADEQ regarding the status of the wastewater treatment plant in order to meet all more stringent water quality and technology based limits as provide in CAO LIS No. 02-059 and PAR LIS No. 02-067. These reports shall be due on January 15, April 15, July 15, and October 15 of each year. Such reports shall outline the status of construction during the previous and current quarters, and a statement regarding whether construction remains on target to meet the June 1, 2007 deadline.
5. EDCC shall continue to conduct semi-annual groundwater monitoring on the twenty-two (22) existing groundwater monitoring wells which shall be performed during May and October of each year, at a minimum, for the following constituents: nitrates, sulfates, ammonia, TDS and both total and dissolved analysis for lead and chromium. Should additional monitoring wells become necessary, these wells will be included in the monitoring program.
6. EDCC shall continue to submit annual groundwater monitoring reports to ADEQ by April 1 of each year. These reports shall include the semi-annual data on the laboratory analysis for the constituents noted in Paragraph 5 of this Order and Agreement, and shall include location, potentiometric, water level, and constituent concentration maps.
7. EDCC shall submit a workplan by June 1, 2005, for implementation of a bioremediation test with “microbes/bacteria” at monitoring wells MW-8 and MW-17, and any other wells identified as a result of the groundwater

monitoring conducted pursuant to paragraph 5 above. Such bioremediation shall be completed by January 1, 2006.

8. EDCC shall submit to ADEQ for review and approval a remedial action workplan (RAP) to address groundwater remediation at the site. The RAP shall be developed within one (1) year of the effective date of this Order, and may incorporate the results of any applicable risk assessment prepared by EDCC.
9. Within sixty (60) days of the effective date of this Order, EDCC shall submit a milestone schedule to ADEQ which addresses the remediation and lining of Lake Lee.
10. Within sixty (60) days of the effective date of this Order, EDCC shall submit to ADEQ a corrective action plan with milestone schedule to eliminate the pH violations noted in paragraph 11 of the Findings of Fact. The corrective action plan shall result in compliance with the pH limits within one (1) year of the effective date of this Order.
11. All submittals required by this Order shall be provided to: Dennis Benson, Branch Manager, NPDES Enforcement Section, Water Division.
12. All submittals required by this Order are subject to approval by ADEQ. In the event of any deficiency, EDCC shall, within thirty (30) days of notification by ADEQ, submit any additional information requested. Failure to adequately respond to the notice of deficiency within thirty (30) days constitutes a failure to meet a deadline and is subject to the civil penalties established in paragraph 13 below.

13. Failure to meet the requirements or deadlines of this Order or the approved schedules provided for herein constitutes a violation of said Order. If EDCC should fail to meet any such requirement or deadline, the EDCC consents and agrees to pay to ADEQ civil penalties according to the following schedule:

(a) First day through the tenth day: \$500.00 per day

(b) Eleventh day through twentieth day: \$1,000.00 per day

(c) Twenty-first day through thirtieth day: \$1,500.00 per day

(d) Each day beyond the thirtieth day: \$2,000.00 per day.

These stipulated penalties may be imposed for delay in performance and shall be in addition to any other remedies or sanctions which may be available to ADEQ by reason of EDCC's failure to comply with the requirements of this CAO. ADEQ reserves the right to collect other penalties and fines pursuant to its enforcement authority in lieu of the stipulated penalties set forth above.

14. If any event occurs which causes or may cause delay in the achievement of compliance by EDCC with the requirements or deadlines of this Order, EDCC shall so notify ADEQ, in writing, as soon as reasonably possible after it is apparent that delay will result, but in no case after the due dates specified in the schedules above. The notification shall describe in detail the anticipated length of the delay, the precise cause of the delay, the measures being taken and to be taken to minimize the delay, and the timetable by which those measures will be implemented.

15. With the exception of the three (3) year implementation schedule outlined in paragraph 3 of the Order and Agreement Section above, ADEQ may grant an

extension of any provision of this Order, provided that EDCC requests such an extension in writing and provided that the delay or anticipated delay is caused by circumstances beyond the control of EDCC. The time for performance may be extended for a reasonable period but in no event longer than the period of delay resulting from such circumstances. The burden of proving that any delay is caused by circumstances beyond the control of EDCC and the length of the delay attributable to such circumstances shall rest with EDCC. Failure to notify ADEQ promptly, as provided in paragraph 14, shall be grounds for denial of an extension.

16. This CAO is subject to public review and comment in accordance with A.C.A. § 8-4-103(d), however this CAO is effective immediately upon signature of the Director. ADEQ retains the right and discretion to rescind this CAO based upon comments received during the thirty (30) day comment period.
17. As provided by Arkansas Pollution Control and Ecology Commission Regulation 8, this matter is subject to being reopened upon Commission initiative or in the event a petition to set aside this Order is granted by the Commission.
18. Nothing contained herein shall relieve EDCC of any obligation imposed by any other applicable local, state, or federal laws, nor, except as specifically provided for herein, shall this CAO be deemed in anyway to relieve EDCC of responsibilities contained in the Permit.
19. Nothing in this CAO shall be construed as a waiver by ADEQ of its enforcement authority over alleged violations not specifically addressed

herein. Also, this CAO does not exonerate EDCC from any past, present, or future conduct which is not expressly addressed herein, nor does it relieve EDCC of the responsibilities for obtaining any necessary permits.

SO ORDERED THIS ____ DAY OF _____, 2004.

Marcus C. Devine, Director

APPROVED AS TO FORM AND CONTENT:

El Dorado Chemical Company

BY: _____

TITLE: _____

DATE: _____