

219 Brown Lane

Bryant, AR 72022

(501) 847-7077

(501) 847-7943 fax

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**GBM<sup>c</sup>**

October 6, 2005

Mr. Martin Maner  
Chief, Water Division  
Arkansas Department of Environmental Quality  
8001 National Drive  
PO Box 8913  
Little Rock, AR 72219-8913



Re: Ouachita River Pipeline Permitting Issues--September 23, 2005 ADEQ Letter Response  
GBM<sup>c</sup> No. 3007-03-200

Dear Mr. Maner:

We have reviewed the referenced letter and want to thank you and your staff for your efforts to address the issues raised in our August 23, 2005 letter. Our responses to the issues are listed in the order of presentation.

### **Concentration Limits at the Ouachita River Outfall**

We agree with the approach expressed in your letter and appreciate the consideration of our views.

### **TSS Limits**

In our opinion, there continues to be no regulatory or environmental basis for the imposition of a TSS limit at the Ouachita River outfall. We understand that the ADEQ intends to place technology or BPJ limits for TSS on the internal outfalls at the individual facilities and obviously the sum of those limits on a mass basis would be imposed by default on the combined outfall. In our opinion, that process meets the NPDES permitting requirements since there is no instream water quality criterion for TSS for the Ouachita River.

We also do not concur that the City's internal outfall TSS concentration limits should be 30/45 mg/L monthly average and daily maximum, respectively. In our opinion, the City should be given the same 90/135 mg/L limits as approved by USEPA and finalized in their individual permit for the Ouachita River discharge. The fact that their discharge would be commingled with other effluent does not make them ineligible from falling under the equivalent to secondary policy.

The proposed alternative of the imposition of turbidity limits is not acceptable. As you are aware, there is no water quality criterion for turbidity for the Ouachita River (unlike many of the other large rivers in the state) and the Gulf Coastal Eco-region turbidity value is inappropriate. That criterion was not developed from the Ouachita River, but from much smaller least disturbed streams which do not share the same characteristics as the Ouachita River. In addition, turbidity is not one of the parameters listed in Reg. 2.404 for which no mixing zone is utilized. If a turbidity value did exist, it should be implemented through the application of a mixing zone and not as an end of pipe value as was suggested.

### **Reallocation of Ammonia Daily Maximum Mass Limitations**

We agree with the approach expressed in your letter and appreciate the consideration of our views.

### **Phosphorus Limit**

We continue in our view that the imposition of a phosphorus limit with no technical or environmental basis is inappropriate. As you are aware, the nutrient modeling study funded by the pipeline participants is underway in accordance with the workplan that was reviewed by your agency and the other concerned state and federal entities. This study will provide a technical basis for the determination of whether a phosphorus limit should be required for the joint outfall. No numerical phosphorus limit should be placed in the permit until there is a scientific basis for doing so. The results of the nutrient study, which is currently underway, could provide that important science.

In addition, it has been stated many times, **both verbally and in our August letter**, that while the initial summertime phosphorus concentrations from the City discharges are below the proposed 0.5 mg/L monthly average limitation, there are no data concerning whether there are significant seasonal variances to those concentrations and time is needed to collect that data. We simply continue to disagree with the approach of setting permit limits on limited data based on a perception of what facilities might be able to achieve and not on a technically supported water quality basis. In addition, there are equity issues in terms of the municipal limits negotiated for the northwest Arkansas municipalities and the absence of phosphorus limits for other discharges to the Ouachita River.

### **Biomonitoring**

We feel that the second option presented in your September 23, 2005 letter has the potential to address the biomonitoring cost concerns while providing the necessary data. We have questions concerning the addition of metals limits to the permit when the reasonable potential screens show that no metals limits are required under the NPDES permitting protocols. However, we are willing to discuss the potential use of water

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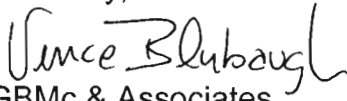
quality based "trigger values" for metals for the purpose of flagging potential toxicity issues.

### **Sampling Frequencies**

The outlined approach appears to address our concerns regarding monitoring costs.

We greatly appreciate the opportunity to submit these comments and sincerely appreciate the time and thought expended by the ADEQ on this unique permitting situation. We have no question that the issues of contention have arisen from the sincere concern of the ADEQ to meet its mandate of environmental protection and the entities involved share that concern. We look forward to reviewing the specific permit language of the draft permits in regards to these issues and providing additional comments as needed. If you have any questions, do not hesitate to call me or Chuck Campbell at (501) 847-7077.

Sincerely,

  
GBMc & Associates  
Vince Blubaugh  
Principal

cc: Mary Leath, Chief Deputy Director, ADEQ  
Mo Shafii, Technical Assistance Manager, NPDES Branch, ADEQ  
El Dorado Pipeline Group Members