

**AUTHORIZATION TO DISCHARGE WASTEWATER UNDER
THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM AND
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.), and the Clean Water Act (33 U.S.C. § 1251 et seq.),

Anthony Forest Products Company, LLC

is authorized to discharge overflow from a wet deck operation, which includes wet deck runoff, stormwater runoff, kiln condensate, equipment washdown, and makeup water from a facility located as follows: 5428 Junction City Highway, El Dorado, AR 71730, in Union County.

Facility Coordinates: Latitude: 33° 07' 56.1" N; Longitude: 92° 38' 07" W

Discharge is to receiving waters named:

unnamed tributary of Gum Creek, thence to Gum Creek, thence to Bayou de L'outre, thence to the Ouachita River in Segment 2D of the Ouachita River Basin.

The outfall is located at the following coordinates:

Outfall 001: Latitude: 33° 08' 15.7" N; Longitude: 92° 38' 22.9" W

Outfall 002: Latitude: 33° 08' 15.7" N; Longitude: 92° 38' 20.5" W

Discharge shall be in accordance with effluent limitations, monitoring requirements, and other conditions set forth in this permit. Per Part III.D.10, the permittee must re-apply 180 days prior to the expiration date below for permit coverage to continue beyond the expiration date.

Effective Date: November 1, 2021

Major Modification Effective Date: March 1, 2024

Minor Modification Effective Date: September 1, 2024

Expiration Date: October 31, 2026



Digitally signed by Stacie R. Wassell
DN: cn=Stacie R. Wassell, o=Division of
Environmental Quality, ou=Office of Water
Quality, email=stacie.wassell@adeq.state.ar.us,
c=US
Date: 2024.08.26 18:02:17 -05'00'

Stacie R. Wassell
Associate Director, Office of Water Quality
Arkansas Department of Energy and Environment
Division of Environmental Quality

August 26, 2024

Minor Modification Issue Date

PART I PERMIT REQUIREMENTS

SECTION A1. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 001 - overflow from a wet deck operation, which includes wet deck runoff, stormwater runoff, kiln condensate, equipment washdown, and makeup water.

During the period beginning on the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 001. Such discharges shall be limited and monitored by the permittee as specified below as well as Parts II and III. See Part IV for all definitions.

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.		
Flow	N/A	N/A	Report, MGD	Report, MGD	twice/week	instantaneous
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)						
(May – October)	N/A	N/A	20	30	once/month ¹	grab
(November – April)	N/A	N/A	25	38	once/month ¹	grab
Total Suspended Solids (TSS)	N/A	N/A	35.0	52.5	once/month ¹	grab
Ammonia Nitrogen (NH ₃ -N)						
(April)	N/A	N/A	5.0	6.1	once/month ¹	grab
(May – March)	N/A	N/A	5.0	7.5	once/month ¹	grab
Dissolved Oxygen (DO)						
(May – October)	N/A	N/A	3.0 (Inst. Min.)		once/month ¹	grab
(November – April)	N/A	N/A	5.0 (Inst. Min.)		once/month ¹	grab
Oil and Grease (O&G)	N/A	N/A	10	15	once/month ¹	grab
Chlorides	Report	Report	Report	Report	once/year	grab
Total Dissolved Solids (TDS)	Report	Report	Report	Report	once/year	grab
Debris	N/A	N/A	N/A	0 ²	twice/week	visual
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

¹. Samples must be taken at the first discharge of the month and be a representative sample of the effluent, as detailed in Part III.C.1 of the permit.

². Report “1” if debris is present or “0” if no debris is present.

Oil, grease, or petrochemical substances shall not be present in receiving waters to the extent that they produce globules or other residue or any visible, colored film on the surface or coat the banks and/or bottoms of the waterbody or adversely affect any of the associated biota. There shall be no visible sheen as defined in Part IV of this permit.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. Samples shall be taken after the final treatment unit, prior to the receiving stream.

SECTION A2. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS: OUTFALL 002 - overflow from a wet deck operation, which includes wet deck runoff, stormwater runoff, kiln condensate, equipment washdown, and makeup water.

During the period beginning on the effective date and lasting until the date of expiration, the permittee is authorized to discharge from Outfall 002. Such discharges shall be limited and monitored by the permittee as specified below as well as Parts II and III. See Part IV for all definitions.

<u>Effluent Characteristics</u>	<u>Discharge Limitations</u>				<u>Monitoring Requirements</u>	
	Mass (lbs/day, unless otherwise specified)		Concentration (mg/l, unless otherwise specified)		Frequency	Sample Type
	Monthly Avg.	Daily Max.	Monthly Avg.	Daily Max.		
Flow	N/A	N/A	Report, MGD	Report, MGD	twice/week	instantaneous
Carbonaceous Biochemical Oxygen Demand (CBOD ₅)						
(May – October)	N/A	N/A	20	30	once/month ¹	grab
(November – April)	N/A	N/A	25	38	once/month ¹	grab
Total Suspended Solids (TSS)	N/A	N/A	35.0	52.5	once/month ¹	grab
Ammonia Nitrogen (NH ₃ -N)						
(April)	N/A	N/A	5.0	6.1	once/month ¹	grab
(May – March)	N/A	N/A	5.0	7.5	once/month ¹	grab
Dissolved Oxygen (DO)						
(May – October)	N/A	N/A	3.0 (Inst. Min.)		once/month ¹	grab
(November – April)	N/A	N/A	5.0 (Inst. Min.)		once/month ¹	grab
Oil and Grease (O&G)	N/A	N/A	10	15	once/month ¹	grab
Chlorides	Report	Report	Report	Report	once/year	grab
Total Dissolved Solids (TDS)	Report	Report	Report	Report	once/year	grab
Debris	N/A	N/A	N/A	0 ²	twice/week	visual
pH	N/A	N/A	<u>Minimum</u> 6.0 s.u.	<u>Maximum</u> 9.0 s.u.	once/month	grab

1. Samples must be taken at the first discharge of the month and be a representative sample of the effluent, as detailed in Part III.C.1 of the permit.
2. Report “1” if debris is present or “0” if no debris is present.

Oil, grease, or petrochemical substances shall not be present in receiving waters to the extent that they produce globules or other residue or any visible, colored film on the surface or coat the banks and/or bottoms of the waterbody or adversely affect any of the associated biota. There shall be no visible sheen as defined in Part IV of this permit.

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. Samples shall be taken after the final treatment unit, prior to the receiving stream.

SECTION B. PERMIT COMPLIANCE SCHEDULE

None

PART II OTHER CONDITIONS

1. The operator of this wastewater treatment facility shall hold a Basic Industrial license from the State of Arkansas in accordance with APC&EC Rule 3.
2. In accordance with 40 C.F.R. §§ 122.62(a)(2) and 124.5, this permit may be reopened for modification or revocation and/or reissuance to require additional monitoring and/or effluent limitations when new information is received that actual or potential exceedance of State water quality criteria and/or narrative criteria are determined to be the result of the permittee's discharge(s) to a relevant water body or a Total Maximum Daily Load (TMDL) is established or revised for the water body that was not available at the time of the permit issuance that would have justified the application of different permit conditions at the time of permit issuance.

3. Other Specified Monitoring Requirements

The permittee may use alternative appropriate monitoring methods and analytical instruments other than as specified in Part I Section A of the permit without a major permit modification under the following conditions:

- The monitoring and analytical instruments are consistent with accepted scientific practices.
- The requests shall be submitted in writing to the Permits Branch of the Office of Water Quality of the DEQ for use of the alternate method or instrument.
- The method and/or instrument is in compliance with 40 C.F.R. Part 136 or approved in accordance with 40 C.F.R. § 136.5.
- All associated devices are installed, calibrated, and maintained to ensure the accuracy of the measurements and are consistent with the accepted capability of that type of device. The calibration and maintenance shall be performed as part of the permittee's laboratory Quality Assurance/Quality Control (QA/QC) program.

Upon written approval of the alternative monitoring method and/or analytical instruments, these methods or instruments must be consistently utilized throughout the monitoring period. DEQ must be notified in writing and the permittee must receive written approval from DEQ if the permittee decides to return to the original permit monitoring requirements.

4. Stormwater runoff commingling with wet deck runoff, kiln condensate, equipment washdown, and makeup water from Outfall 001 shall be managed in accordance with Best Management Practices (BMPs) to control the quality of stormwater discharges associated with industrial activity that are authorized by this permit. BMPs, as defined in Part IV.7, must be implemented for the facility to prevent or reduce the pollution of waters of the State from stormwater runoff, spills or leaks, and/or waste disposal. Use of BMPs in lieu of numeric effluent limitations in NPDES permits is authorized under 40 C.F.R. § 122.44(k) when the permitting authority finds numeric effluent limitations to be infeasible to carry out the purposes of the Clean Water Act. All spilled products and other spilled wastes must be immediately cleaned up and properly

disposed. The permittee must amend the BMPs whenever there is a change in the facility or a change in the operation of the facility.

5. Pursuant to 40 C.F.R. §§ 429.24, 429.114, and 429.124, there shall be no discharge of “process wastewater” from the timber products processing operations. As defined in 40 C.F.R. § 429.11(c), the term “process wastewater” specifically excludes non-contact cooling water, material storage yard runoff (either raw material or processed wood storage), and boiler blowdown. For the purposes of this permit, kiln condensate is considered equivalent to boiler blowdown.
6. The permittee is required to maintain at least 2.0 feet of freeboard in the sedimentation pond.

PART III STANDARD CONDITIONS

SECTION A – GENERAL CONDITIONS

1. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the federal Clean Water Act and the Arkansas Water and Air Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; and/or for denial of a permit renewal application. **Any values reported in the required Discharge Monitoring Report (DMR) which are in excess of an effluent limitation specified in Part I shall constitute evidence of violation of such effluent limitation and of this permit.**

2. Penalties for Violations of Permit Conditions

The Arkansas Water and Air Pollution Control Act 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 by both such fine and imprisonment 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

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

- A. Violation of any terms or conditions of this permit.
- B. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.
- C. A change in any conditions that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. 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.
- E. Failure of the permittee to comply with the provisions of APC&EC Rule 9 (Permit fees) as required by Part III.A.11 herein.

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

4. **Toxic Pollutants**

Notwithstanding Part III.A.3, if any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under APC&EC Rule 2, as amended, or Section 307(a) of the Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitations on the pollutant in this permit, this permit shall be modified or revoked and reissued to conform to the toxic effluent standards or prohibition and the permittee so notified.

The permittee shall comply with effluent standards, narrative criteria, or prohibitions established under APC&EC Rule 2, as amended, or Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

5. **Civil and Criminal Liability**

Except as provided in permit conditions for “Bypass of Treatment Facilities” (Part III.B.4), and “Upset” (Part III.B.5), 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 and federal 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 (Ark. Code Ann. § 8-4-101 et seq.).

6. **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 to under Section 311 of the Clean Water Act.

7. **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 under authority preserved by Section 510 of the Clean Water Act.

8. **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.

9. **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.

10. **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 requirement, statute, ordinance, or regulation.

11. **Permit Fees**

The permittee shall comply with all applicable permit fee requirements (i.e., including annual permit fees following the initial permit fee that will be invoiced every year the permit is active) for wastewater discharge permits as described in APC&EC Rule 9 (Rule for the Fee System for Environmental Permits). Failure to promptly remit all required fees shall be grounds for the Director to initiate action to terminate this permit under the provisions of 40 C.F.R. §§ 122.64 and 124.5(d), as adopted in APC&EC Rule 6 and the provisions of APC&EC Rule 8.

SECTION B – OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. **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 operating staff which is duly qualified to carryout operation, maintenance, and testing functions required to ensure compliance with the conditions of this permit.

2. **Need to Halt or Reduce not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. Upon reduction, loss, or failure of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control production or discharges or both until the facility is restored or an alternative method of treatment is provided.

This requirement applies, for example, when the primary source of power for the treatment facility is reduced, is lost, or alternate power supply fails.

3. **Duty to Mitigate**

The permittee shall take all reasonable steps to minimize or 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.

4. **Bypass of Treatment Facilities**

“Bypass” means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 C.F.R. § 122.41(m)(1)(i).

A. Bypass not exceeding limitation

The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III.B.4.B and 4.C.

B. Notice

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten days before the date of the bypass.
2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part III.D.6 (24-hour notice).

C. Prohibition of bypass

1. Bypass is prohibited and the Director may take enforcement action against a permittee for bypass, unless:
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The permittee submitted notices as required by Part III.B.4.B.
2. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part III.B.4.C(1).

5. **Upset Conditions**

- A. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of Part III.B.5.B of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
- B. Conditions necessary for demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and that the permittee can identify the specific cause(s) of the upset.
 - 2. The permitted facility was at the time being properly operated.
 - 3. The permittee submitted notice of the upset as required by Part III.D.6.
 - 4. The permittee complied with any remedial measures required by Part III.B.3.
- C. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

6. **Removed Substances**

- A. Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the State. The Permittee must comply with all applicable state and Federal regulations governing the disposal of sludge, including but not limited to 40 C.F.R. Parts 257, 258, and 503.
- B. Any changes to the permittee's disposal practices described in the Statement of Basis, as derived from the permit application, will require at least 180 days prior notice to the Director to allow time for additional permitting. Please note that the 180 day notification requirement may be waived if additional permitting is not required for the change.

7. **Power Failure**

The permittee is responsible for maintaining adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failure either by means of alternate power sources, standby generators, or retention of inadequately treated effluent.

SECTION C – MONITORING AND RECORDS

1. **Representative Sampling**

Samples and measurements taken as required herein shall be representative of the volume and nature of the monitored discharge during the entire monitoring period. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before

the effluent joins or is diluted by any other waste stream, body of water, or substance. Monitoring points shall not be changed without notification to and the approval of the Director. Intermittent discharge shall be monitored.

2. **Flow Measurement**

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of less than +/- 10% from true discharge rates throughout the range of expected discharge volumes and shall be installed at the monitoring point of the discharge.

Calculated Flow Measurement

For calculated flow measurements that are performed in accordance with either the permit requirements or a Division approved method (i.e., as allowed in the *Other Specified Monitoring Requirements* condition under Part II), the +/- 10% accuracy requirement described above is waived. This waiver is only applicable when the method used for calculation of the flow has been reviewed and approved by the Division.

3. **Monitoring Procedures**

Monitoring must be conducted according to test procedures approved under 40 C.F.R. Part 136, unless other test procedures have been specified in this permit. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals frequent enough to ensure accuracy of measurements and shall ensure that both calibration and maintenance activities will be conducted. An adequate analytical quality control program, including the analysis of sufficient standards, spikes, and duplicate samples to ensure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory. At a minimum, spikes and duplicate samples are to be analyzed on 10% of the samples.

4. **Penalties for Tampering**

The Arkansas Water and Air Pollution Control Act 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.

5. **Reporting of Monitoring Results**

40 C.F.R. § 127.11(a)(1) and 40 C.F.R. § 127.16(a) require that monitoring reports must be reported on a Discharge Monitoring Reports (DMR) and filed electronically. Signatory

Authorities must initially request access for a NetDMR account. Once a NetDMR account is established, access to electronic filing should use the following link <https://cdx.epa.gov>. Permittees who are unable to file electronically may request a waiver from the Director in accordance with 40 C.F.R. § 127.15. Monitoring results obtained during the previous monitoring period shall be summarized and reported on a DMR dated and submitted no later than the 25th day of the month, following the completed reporting period beginning on the effective date of the permit.

6. **Additional Monitoring by the Permittee**

If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 C.F.R. Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated on the DMR.

7. **Retention of Records**

The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, 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.

8. **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 individual(s) who performed the sampling or measurements.
- C. The date(s) and time analyses were performed.
- D. The individual(s) who performed the analyses.
- E. The analytical techniques or methods used.
- F. The measurements and results of such analyses.

9. **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 or as otherwise authorized by the Clean Water Act, any substances or parameters at any location.

SECTION D – REPORTING REQUIREMENTS

1. Planned Changes

The Permittee shall give notice to the Director as soon as possible but no later than 180 days prior to any planned physical alterations or additions to the permitted facility [40 C.F.R. § 122.41(l)]. Notice is required only when:

- A. The alteration or addition to a permitted facility may meet one of the criteria for new sources at 40 C.F.R. § 122.29(b).
- B. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants subject to effluent limitations in the permit, or to the notification requirements under 40 C.F.R. § 122.42(b).

2. 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.

3. 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.

4. Monitoring Reports

Monitoring results shall be reported at the intervals and in the form specified in Part III.C.5. **Discharge Monitoring Reports must be submitted even when no discharge occurs during the reporting period.**

5. Compliance Schedule

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date. Any reports of noncompliance shall include the cause of noncompliance, any remedial actions taken, and the probability of meeting the next scheduled requirement.

6. Twenty-four Hour Report

Please be aware that the notifications can be sent by email to water-enforcement-report@adeq.state.ar.us or at 501-682-0624 for immediate reporting:

- A. The permittee shall report any noncompliance which may endanger health or the environment within 24 hours from the time the permittee becomes aware of the circumstances to the Enforcement Branch of the Office of Water Quality of DEQ. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain the following information:
 - 1. A description of the noncompliance and its cause.
 - 2. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue.
 - 3. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.
- B. The following must be reported within 24 hours:
 - 1. Any unanticipated bypass which exceeds any effluent limitation in the permit.
 - 2. Any upset which exceeds any effluent limitation in the permit.
 - 3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Director in Part I of the permit.
- C. The Director may waive the written report on a case-by-case basis if the notification has been received within 24 hours to the Enforcement Branch of the Office of Water Quality of the DEQ.

7. Other Noncompliance

The permittee shall report all instances of noncompliance not reported under Parts III.D.4, 5, and 6, at the time monitoring reports are submitted. The reports shall contain the information listed at Part III.D.6.

8. Changes in Discharge of Toxic Substances for Industrial Dischargers including Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers

The Director shall be notified as soon as the permittee knows or has reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant including those listed in 40 C.F.R. § 401.15 which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 C.F.R. § 122.42(a)(1).
- B. That any activity has occurred or will occur which would result in any discharge on a non-routine or infrequent basis of a toxic pollutant including those listed in 40 C.F.R. § 401.15

which is not limited in the permit, if that discharge will exceed the highest of the “notification levels” described in 40 C.F.R. § 122.42(a)(2).

9. **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, or 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.

10. **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. Continuation of expiring permits shall be implemented through procedures outlined by APC&EC Rule 6.

11. **Signatory Requirements**

All applications, reports, or information submitted to the Director shall be signed and certified as follows:

A. All **permit applications** shall be signed as follows:

1. 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.
 - (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.
2. For a partnership or sole proprietorship: by a general partner or proprietor, respectively.

3. 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.
- (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:

1. The authorization is made in writing by a person described above.
2. 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).
3. The written authorization is submitted to the Director.

- C. Certification. 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.”

12. **Availability of Reports**

Except for data determined to be confidential under 40 C.F.R. Part 2 and APC&EC Rule 6, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Division of Environmental Quality. As required by the Rules, the name and address of any permit applicant or permittee, permit applications, permits, and effluent data shall not be considered confidential.

13. **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 specified in Part III.A.2 and/or criminal penalties under the authority of the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. § 8-4-101 et seq.).

14. **Other Information**

Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.

PART IV DEFINITIONS

All definitions contained in Section 502 of the Clean Water Act and 40 C.F.R. § 122.2 shall apply to this permit and are incorporated herein by reference. Additional definitions of words or phrases used in this permit are as follows:

1. **“7-Day Average”** also known as “average weekly,” means the highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all “daily discharges” measured during a calendar week divided by the number of “daily discharges” measured during that week. The 7-Day Average for Fecal Coliform Bacteria (FCB) or *E. coli* is the geometric mean of the “daily discharges” of all effluent samples collected during a calendar week in colonies per 100 ml.
2. **“Act”** means the Clean Water Act, Public Law 95-217 (33.U.S.C. 1251 et seq.) as amended.
3. **“Administrator”** means the Administrator of the U.S. Environmental Protection Agency.
4. **“APC&EC”** means the Arkansas Pollution Control and Ecology Commission.
5. **“Applicable effluent standards and limitations”** means all State and Federal effluent standards and limitations to which a discharge is subject under the Act, including, but not limited to, effluent limitations, standards of performance, toxic effluent standards and prohibitions, and pretreatment standards.
6. **“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 (APC&EC) Rule 2, as amended.
7. **“Best Management Practices (BMPs)”** are activities, practices, maintenance procedures, and other management practices designed to prevent or reduce the pollution of waters of the State. BMPs also include treatment technologies, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw sewage. BMPs may include structural devices or nonstructural practices.
8. **“Bypass”** means the intentional diversion of waste streams from any portion of a treatment facility, as defined at 40 C.F.R. § 122.41(m)(1)(i).
9. **“Composite sample”** is a mixture of grab samples collected at the same sampling point at different times, formed either by continuous sampling or by mixing a minimum of 4 effluent portions collected at equal time intervals (but not closer than one hour apart) during operational hours, within the 24-hour period, and combined proportional to flow or a sample collected at more frequent intervals proportional to flow over the 24-hour period.
10. **“CV”** means coefficient of variation.
11. **“Daily Discharge”** means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.
 - A. **Mass Calculations:** For pollutants with limitations expressed in terms of mass, the “daily discharge” is calculated as the total mass of pollutant discharged over the sampling day.
 - B. **Concentration Calculations:** For pollutants with limitations expressed in other units of measurement, the “daily discharge” is calculated as the average measurement of the pollutant over the day.

12. **“Daily Maximum”** discharge limitation means the highest allowable “daily discharge” during the calendar month.
13. **“Director”** means the Director of the Division of Environmental Quality.
14. **“Dissolved oxygen limit”** shall be defined as follows:
 - A. When limited in the permit as a minimum monthly average, shall mean the lowest acceptable monthly average value, determined by averaging all samples taken during the calendar month.
 - B. When limited in the permit as an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
15. **“*E. coli*”** a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For *E. coli*, report the Daily Maximum as the highest “daily discharge” during the calendar month and the Monthly Average as the geometric mean of all “daily discharges” within a calendar month, in colonies per 100 ml.
16. **“Division”** means the Division of Environmental Quality (DEQ).
17. **“Fecal Coliform Bacteria (FCB)”** a sample consists of one effluent grab portion collected during a 24-hour period at peak loads. For FCB, report the Daily Maximum as the highest “daily discharge” during the calendar month and the Monthly Average as the geometric mean of all “daily discharges” within a calendar month, in colonies per 100 ml.
18. **“Grab sample”** means an individual sample collected in less than 15 minutes in conjunction with an instantaneous flow measurement.
19. **“Industrial User”** means a nondomestic discharger, as identified in 40 C.F.R. Part 403, introducing pollutants to a publicly owned treatment works (POTW).
20. **“Instantaneous flow measurement”** means the flow measured during the minimum time required for the flow-measuring device or method to produce a result in that instance. To the extent practical, instantaneous flow measurements coincide with the collection of any grab samples required for the same sampling period so that together the samples and flow are representative of the discharge during that sampling period.
21. **“Instantaneous Maximum”** when limited in the permit as an instantaneous maximum value, shall mean that no value measured during the reporting period may fall above the stated value.
22. **“Instantaneous Minimum”** an instantaneous minimum value, shall mean that no value measured during the reporting period may fall below the stated value.
23. **“Monitoring and Reporting”**
 When a permit becomes effective, monitoring requirements are of the immediate period of the permit effective date. Where the monitoring requirement for an effluent characteristic is monthly or more frequently, the Discharge Monitoring Report (DMR) shall be submitted by the 25th of the month following the sampling. Where the monitoring requirement for an effluent characteristic is Quarterly, Semi-Annual, Annual, or Yearly, the DMR shall be submitted by the 25th of the month following the monitoring period end date.
 - A. **MONTHLY:**
 is defined as a calendar month or any portion of a calendar month for monitoring requirement frequency of once/month or more frequently.
 - B. **BI-MONTHLY:**
 is defined as two (2) calendar months or any portion of 2 calendar months for monitoring requirement frequency of once/2 months or more frequently.

C. 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.
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 are: May through July, August through October, November through January, and February through April.

D. 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.

E. 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.

24. **“Monthly Average”** means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month. For Fecal Coliform Bacteria (FCB) or *E. coli*, report the Monthly Average as the geometric mean of all “daily discharges” within a calendar month.
25. **“National Pollutant Discharge Elimination System”** means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318, and 405 of the Clean Water Act.
26. **“NOEC”** means No Observed Effect Concentration.
27. **“PMSD”** means Percent Minimum Significant Difference.
28. **“POTW”** means Publicly Owned Treatment Works.
29. **“Reduction of CBOD₅/BOD₅ and TSS in mg/l Formula”**
$$[(\text{Influent} - \text{Effluent}) / \text{Influent}] \times 100$$
30. **“Severe property damage”** means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in products.
31. **“Sewage sludge”** means the solids, residues, and precipitate separated from or created in sewage by the unit processes at a POTW. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and stormwater runoff that are discharged to or otherwise enter a POTW.
32. **“Treatment works”** means any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage and industrial wastes, of a liquid nature to implement section 201 of the Act, or necessary to recycle reuse water at the most economic cost over the estimated life of the works, including intercepting sewers, sewage collection systems, pumping, power and other equipment, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities, and any works, including site

acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

33. **Units of Measure:**

“**MGD**” shall mean million gallons per day.

“**mg/l**” shall mean milligrams per liter or parts per million (ppm).

“**µg/l**” shall mean micrograms per liter or parts per billion (ppb).

“**cfs**” shall mean cubic feet per second.

“**ppm**” shall mean parts per million.

“**s.u.**” shall mean standard units.

34. “**Upset**” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. Any upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operations.

35. “**Visible sheen**” means the presence of a film or sheen upon or a discoloration of the surface of the discharge. A sheen can also be from a thin glistening layer of oil on the surface of the discharge.

36. “**Weekday**” means Monday – Friday.

Final Statement of Basis

All changes to the Statement of Basis are italicized. This is a modified permit and only the modified portion of the permit is reopened for comment.

This Statement of Basis is for information and justification of the permit requirements only. Please note that it is not enforceable. This permitting decision is for the *modification* of discharge Permit Number AR0052507 with Arkansas Department of Energy and Environment – Division of Environmental Quality (DEQ) Arkansas Facility Identification Number (AFIN) 70-00032 to discharge to Waters of the State.

1. PERMITTING AUTHORITY

The issuing office is:

Division of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

2. APPLICANT

The facility address and applicant's mailing address is:

Resolute El Dorado Inc.
5428 Junction City Highway
El Dorado, AR 71730

3. PREPARED BY

The permit was modified by:

Terry Liu, P.E.
Staff Engineer
NPDES Discharge Permits Section
Office of Water Quality
(501) 682- 0653
Email: terry.liu@adeq.state.ar.us

Jessica Sears, P.E.
Engineer Supervisor
NPDES Discharge Permits Section
Office of Water Quality
(501) 682-0621
Email: Jessica.Sears@adeq.state.ar.us

4. PERMIT ACTIVITY

Previous Permit Effective Date:	July 1, 2016
Previous Permit 1 st Minor Modification Date:	November 1, 2017
Previous Permit 2 nd Minor Modification Date:	February 1, 2020
Previous Permit Major Modification Date:	January 1, 2021
Previous Permit Expiration Date:	June 30, 2021

This is a modified permit. In accordance with 40 C.F.R. § 122.62, only the conditions subject to modification are reopened.

The permittee submitted a permit modification application and state construction permit application on June 24, 2022, with additional information received July 6, 2022. The purpose of the modification is to upgrade the existing Outfall 001 structure and install an emergency spillway (New Outfall 002) for the pond. The new Outfall 001 structure will consist of a precast H-flume with a v-notch weir. A staff gauge will allow for visual flow measurements. In addition to the new Outfall 001 structure, an emergency spillway (New Outfall 002) will be added to ensure integrity of the pond levee if the discharge capacity of the H-flume were to be exceeded in any extreme rain event. The discharge from the emergency spillway would discharge to the same unnamed tributary of Gum Creek.

The current discharge permit is being modified for the remainder of the 5-year term in accordance with regulations promulgated at 40 C.F.R. § 122.46(a).

DOCUMENT ABBREVIATIONS

In the document that follows, various abbreviations are used. They are as follows:

APC&EC - Arkansas Pollution Control and Ecology Commission
BAT - best available technology economically achievable
BCT - best conventional pollutant control technology
BMP - best management practice
BOD₅ - five-day biochemical oxygen demand
BPJ - best professional judgment
BPT - best practicable control technology currently available
CBOD₅ - carbonaceous biochemical oxygen demand
CD - critical dilution
C.F.R. - Code of Federal Regulations
cfs - cubic feet per second
COD - chemical oxygen demand
COE - United States Corp of Engineers
CPP - continuing planning process
CWA - Clean Water Act
DMR - discharge monitoring report
DO - dissolved oxygen
ELG - effluent limitation guidelines
EPA - United States Environmental Protection Agency
ESA - Endangered Species Act
FCB - fecal coliform bacteria
gpm - gallons per minute
MGD - million gallons per day
MQL - minimum quantification level
NAICS - North American Industry Classification System
NH₃-N - ammonia nitrogen
NO₃ + NO₂-N - nitrate + nitrite nitrogen
NPDES - National Pollutant Discharge Elimination System
O&G - oil and grease

Rule 2 - APC&EC Rule 2
Rule 6 - APC&EC Rule 6
Rule 8 - APC&EC Rule 8
Rule 9 - APC&EC Rule 9
RP - reasonable potential
SIC - standard industrial classification
TDS - total dissolved solids
TMDL - total maximum daily load
TP - total phosphorus
TRC - total residual chlorine
TSS - total suspended solids
UAA - use attainability analysis
USF&WS - United States Fish and Wildlife Service
USGS - United States Geological Survey
WET - whole effluent toxicity
WQMP - water quality management plan
WQS - Water Quality standards
WWTP - wastewater treatment plant

Compliance and Enforcement History:

The compliance and enforcement history for this facility can be reviewed by using the following web link:

https://www.adeg.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0052507_Enforcement%20Review_20220901.pdf

5. SIGNIFICANT CHANGES FROM THE PREVIOUSLY ISSUED PERMIT

This is a modified permit. Only the modified portions of the permit are open for comments pursuant to 40 C.F.R. § 122.62:

1. *Outfall 002 was added based on the modification application. See Section 4 of this Statement of Basis for further information.*

The significant changes below were opened for public comment with the previous renewal of this permit and are therefore not subject to public comment with this modification.

The permittee is responsible for carefully reading the permit in detail and becoming familiar with all of the changes therein:

1. The facility name was updated to Resolute El Dorado Inc. in accordance with the renewal application.
2. The type of wastewater discharged was updated in accordance with the renewal application.
3. A monitoring and reporting requirement was added for chlorides. See Sections 11.A and 11.F of this statement of basis for additional information.

4. The monitoring and reporting requirement for sulfates was removed. See Sections 11.A and 11.F of this statement of basis for additional information.
5. The monitoring frequency for TDS was reduced to once/year. See Section 13 of this statement of basis for additional information.
6. Oil and Grease limits are now specified to two significant digits in accordance with current OWQ rounding procedures.
7. The sampling location in Part I of the permit was changed from “after the free board pond” to “after the final treatment unit.”
8. The condition in Part II.1 of the previous permit regarding discharges other than the permitted outfall was removed. This condition was redundant with Part I of the permit, which only allows discharges from the permitted outfall, and Part III.D.6 of the permit, which requires 24-hour reporting of any noncompliance that may endanger human health or the environment.
9. Several (Reserved) conditions were removed from Part II of the permit, and the remaining conditions were renumbered accordingly.
10. The condition in Part II.9 of the previous permit requiring the permittee to obtain coverage for stormwater-only outfalls was removed. The permittee has obtained coverage for these outfalls under the industrial stormwater general permit, with tracking number ARR001650.
11. The condition regarding process wastewater was revised for clarity in Part II.5 of the permit.
12. A new condition explicitly requiring that the permittee maintain 2.0 feet of freeboard was added as Part II.6 of the permit. Although not explicitly written in the previous permit, this was a requirement in the original 2016 permit for this facility has been implicitly required as part of the proper operations and maintenance of ponds to ensure levee integrity in accordance with Part III.B.1 of the permit.
13. Part III.C.5 of the permit now requires that DMRs be submitted electronically via NetDMR.
14. An email address and phone number were added for 24-hour reporting in Part III.D.5 of the permit.
15. A new condition regarding other information was added as Part III.D.14 of the permit.

6. RECEIVING STREAM SEGMENT AND DISCHARGE LOCATION

The outfall is located at the following coordinates based on the previous permit, *permit modification application*, and Google Earth using WGS84:

Outfall 001: Latitude: 33° 08' 15.7" N; Longitude: 92° 38' 22.9" W

Outfall 002: Latitude: 33° 08' 15.7" N; Longitude: 92° 38' 20.5" W

Description of Receiving Waters	
Name:	unnamed tributary of Gum Creek, thence to Gum Creek, thence to Bayou de L'outre, thence to the Ouachita River
Stream Segment:	2D
River Basin:	Ouachita
USGS Hydrologic	08040202

Unit Code (HUC8):	
DEQ Reach:	908 (closest downstream 3-digit reach code, which is assigned to Gum Creek)
Assessment Unit (AU)	AR_08040202_908
Designated Uses:	secondary contact recreation, raw water source for domestic (public and private)*, industrial, and agricultural water supplies; propagation of desirable species of fish and other aquatic life; and other compatible uses *The domestic water supply use has been removed from Gum Creek

7. 303(d) LIST, TOTAL MAXIMUM DAILY LOADS, ENDANGERED SPECIES, AND ANTI-DEGRADATION CONSIDERATIONS

A. 303(d) List

The unnamed tributary and Gum Creek are not on Arkansas's 2018 List of Impaired Waterbodies (303(d) List).

Approximately 1 mile downstream from the outfall, Gum Creek flows into Bayou de L'outre, which is listed in Category 5 on the 2018 303(d) List for pH, siltation/turbidity, lead, and zinc. This permit contains limits for pH and total suspended solids that are protective of the pH and siltation/turbidity impairment. The permittee certified in the renewal application that lead and zinc are believed to be absent in the effluent, and based on the EPA Industrial Stormwater Fact Sheet Series, Sector A: Timber Products Facilities, runoff from untreated lumber storage is unlikely to contain these pollutants. Therefore, no additional permit action is required at this time.

B. Applicable Total Maximum Daily Load (TMDL) Reports

Approximately 12 miles downstream of the outfall, Bayou de L'outre flows into Louisiana. Bayou de L'outre in Louisiana is subject to a TMDL titled "Bayou de Loutre TMDL for Dissolved Oxygen," May 2002, by FTN Associates, Ltd. No WLA was assigned to this facility (permitted under AR0036072 at the time the TMDL was written), or to any facilities in Arkansas. The TMDL also did not require any reductions in point sources, only in nonpoint sources. Appendix S of this TMDL contains several comments from the Louisiana DEQ indicating that it may have been based on inadequate data and that the waterbody may have inappropriate standards and criteria.

The water quality model that was technically accepted by EPA Region VI on May 6, 2020 was extended from 2.1 miles to 4.0 miles to demonstrate that the discharge from this facility is not expected to cause or contribute to DO concentrations below 5.0 mg/l in Louisiana. Therefore, no additional permitting action regarding this TMDL is required at this time.

C. Endangered Species

No comments on the application were received from the USF&WS. The draft permit and

Statement of Basis were sent to the USF&WS for their review.

The Arkansas Natural Heritage Commission has identified that the following species of conservation concern are known to occur in Bayou de L'outre at or within five miles downstream of the outfall:

Bolboschoenus robustus, salt-marsh bulrush – state concern
Cattail Marsh (natural community) – state concern

The limits in the permit are designed to protect all beneficial uses of the receiving waters, including propagation of desirable species of fish and other aquatic life as well as other species which are directly or indirectly affected by the receiving waters, which includes the above species of concern. Therefore, DEQ has determined that the final permit limits will serve to help protect the species of concern identified above.

D. Anti-Degradation

The limitations and requirements set forth in this permit for discharge into waters of the State are consistent with the Anti-degradation Policy and all other applicable water quality standards found in APC&EC Rule 2.

8. OUTFALL, TREATMENT PROCESS DESCRIPTION, AND FACILITY CONSTRUCTION

The following is a description of the facility described in the application:

- A. Design Flow: variable
- B. Type of Treatment: oil/water separator (equipment washdown water only), septic tank (kiln condensate only), and a sedimentation pond
- C. Discharge Description: overflow from a wet deck operation, which includes wet deck runoff, stormwater runoff, kiln condensate, equipment washdown, and makeup water
- D. Facility Status: This facility was evaluated using the NPDES Permit Rating Worksheet (MRAT) to determine the correct permitting status. Since the facility's MRAT score of 25 is less than 80, this facility is classified as a minor industrial.
- E. Facility Construction: This permit does not authorize or approve the construction or modification of any part of the treatment system or facilities. Approval for such construction must be by permit issued under Rule 6.202.

9. ACTIVITY

Under the Standard Industrial Classification (SIC) code of 2421 or North American Industry Classification System (NAICS) code of 321113, the applicant's activities are the operation of lumber sawmill with a wet deck.

10. SOLIDS PRACTICES

Solids will accumulate in the settling pond until cleanout is necessary. The facility will coordinate with DEQ regarding any beneficial use or disposal of solids removed from the pond.

11. DEVELOPMENT AND BASIS FOR PERMIT CONDITIONS

The Division of Environmental Quality has determined to issue a permit for the discharge described in the application. Permit requirements are based on federal regulations (40 C.F.R. Parts 122, 124, and Subchapter N), and regulations promulgated pursuant to the Arkansas Water and Air Pollution Control Act (Ark. Code Ann. 8-4-101 et seq.). All of the information contained in the application, including all of the submitted effluent testing data, was reviewed to determine the need for effluent limits and other permit requirements.

The following is an explanation of the derivation of the conditions of the permit and the reasons for them or, in the case of notices of intent to deny or terminate, reasons suggesting the decisions as required under 40 C.F.R. § 124.7.

Technology-Based Versus Water Quality-Based Effluent Limitations and Conditions

Following regulations promulgated at 40 C.F.R. § 122.44, the permit limits are based on either technology-based effluent limits pursuant to 40 C.F.R. § 122.44(a) or on State water quality standards and requirements pursuant to 40 C.F.R. § 122.44(d), whichever are more stringent as follows:

Parameter	Water Quality-Based		Technology-Based		Previous Permit		Final Permit	
	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l
Outfalls 001 & 002								
CBOD ₅								
(May – October)	20	30	N/A	N/A	20	30	20	30
(November – April)	25	38	N/A	N/A	25	38	25	38
TSS	35*	N/A	35.0	52.5	35.0	52.5	35.0	52.5
NH ₃ -N								
(April)	5.0	6.1	N/A	N/A	5.0	6.1	5.0	6.1
(May – March)	5.0	7.5	N/A	N/A	5.0	7.5	5.0	7.5
DO								
(May – October)	3.0 (Inst. Min.)		N/A		3.0 (Inst. Min.)		3.0 (Inst. Min.)	
(November – April)	5.0 (Inst. Min.)		N/A		5.0 (Inst. Min.)		5.0 (Inst. Min.)	
Chlorides	N/A	N/A	Report	Report	N/A	N/A	Report	Report
Sulfates	N/A	N/A	N/A	N/A	Report	Report	N/A	N/A

Parameter	Water Quality-Based		Technology-Based		Previous Permit		Final Permit	
	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l	Monthly Avg. mg/l	Daily Max. mg/l
TDS	N/A	N/A	Report	Report	Report	Report	Report	Report
Debris	N/A	0	N/A	<1"	N/A	0	N/A	0
O&G	10	15	N/A	N/A	10.0	15.0	10	15
pH	6.0-9.0 s.u.		6.0-9.0 s.u.		6.0-9.0 s.u.		6.0-9.0 s.u.	

*Technology-based limit indirectly modeled through sediment oxygen demand to ensure compliance with water quality standards at critical low-flow conditions.

A. Justification for Limitations and Conditions of the Final Permit

Parameter	Water Quality or Technology	Justification
Outfalls 001 & 002		
CBOD ₅	Water Quality	Water Quality Model dated March 11, 2020 (and reviewed <i>March 8, 2023</i>), CWA § 402(o), and previous permit
TSS	Technology	Memo regarding Permitting Policy for Sawmills dated December 7, 1992, 40 C.F.R. § 122.44(l), and previous permit
NH ₃ -N	Water Quality	Rule 2.512, Water Quality Model dated March 11, 2020 (and reviewed <i>March 8, 2023</i>), CWA § 402(o), and previous permit
DO	Water Quality	Rule 2.505, Water Quality Model dated March 11, 2020 (and reviewed <i>March 8, 2023</i>), CWA § 402(o), and previous permit
Chlorides	Technology	CPP Section IX, Page 7
TDS	Technology	CPP Section IX, Page 7, and previous permit
Debris	Water Quality	Rule 2.408, 40 C.F.R. § 429.103, CWA § 402(o), and previous permit
O&G	Water Quality	Rule 2.510, CWA § 402(o), and previous permit
pH	Water Quality	Rule 2.504, CWA § 402(o), and previous permit

Outfall 002

An emergency spillway will be installed at the point of lowest elevation on the pond levee, located east of Outfall 001 by an estimated 250'. A discharge from the emergency spillway would drain to the same unnamed tributary of Gum Creek. Therefore, a new Outfall 002 is included in the permit.

TSS

TSS limits are based on the Arkansas Department of Pollution Control & Ecology memo: Permitting Policy for Sawmills dated December 7, 1992, and are continued from the previous permit. This limit was indirectly modeled through sediment oxygen demand to

ensure compliance with water quality standards at the modeled conditions.

Chlorides and TDS

Gum Creek, which is less than 0.5 miles downstream from the outfall, has site-specific chloride and TDS standards that were established by a use attainability analysis. Therefore, monitoring and reporting are required for chlorides and TDS in accordance with Item 5 of the Administrative Guidance Document in Section IX of the CPP (Page IX-7). See the minerals analysis in Section 11.F for additional details.

Sulfates

The monitoring and reporting requirement for sulfate was removed from the permit because this facility did not show reasonable potential to cause or contribute to an exceedance of water quality criteria and the receiving stream is not listed as impaired for sulfates. See the minerals analysis in Section 11.F for additional details.

B. Anti-backsliding

The permit is consistent with the requirements to meet Anti-backsliding provisions of the Clean Water Act (CWA), Section 402(o) [40 C.F.R. § 122.44(l)]. The final effluent limitations for reissuance permits must be as stringent as those in the previous permit, unless the less stringent limitations can be justified using exceptions listed in CWA 402(o)(2), CWA 303(d)(4), or 40 C.F.R. § 122.44(l)(2)(i).

The permit meets or exceeds the requirements of the previous permit.

C. Limits Calculations

1. Mass Limits:

In accordance with 40 C.F.R. § 122.45(f)(1), all pollutants limited in permits shall have limitations expressed in terms of mass if feasible. 40 C.F.R. § 122.45(f)(2) allows for pollutants which are limited in terms of mass to also be limited in terms of other units of measurement.

Mass limits are not feasible for this permit due to the variable nature of the flow.

2. Daily Maximum Limits:

The daily maximum limits for NH₃-N (all months except April), CBOD₅, and TSS are based on Section 5.4.2 of the Technical Support Document for Water Quality-based Toxics Control:

$$\text{daily maximum limits} = \text{monthly average limits} \times 1.5$$

The daily maximum NH₃-N limit for the month of April is based on the requirements of Rule 2.512.

The daily maximum limit for O&G is based on Rule 2.510.

D. 208 Plan (Water Quality Management Plan)

The 208 Plan, developed by the DEQ under provisions of Section 208 of the federal Clean Water Act, is a comprehensive program to work toward achieving federal water goals in Arkansas. The initial 208 Plan, adopted in 1979, provides for annual updates, but can be revised more often if necessary. The 208 Plan is being updated to add Outfall 002 with the same effluent limits as Outfall 001. No changes to the existing model are occurring since limits for both outfalls are identical and the distance between outfalls is insignificant for modeling purposes.

E. Applicable Effluent Limitations Guidelines

Discharges from facilities of this type are covered by Federal effluent limitations guidelines promulgated under 40 C.F.R. Part 429 – Timber Products Processing Point Source Category.

The present technology-based limits and monitoring requirements are continued based on the previous discharge permit, 40 C.F.R. Part 429, and 40 C.F.R. § 122.44(l).

In accordance with Subpart I – Wet Storage Subcategory (40 C.F.R. § 429.103), no debris shall be discharged and the pH shall be within the range of 6.0 to 9.0. Debris is defined in 40 C.F.R. § 429.11 as “woody material such as bark, twigs, branches, heartwood or sapwood that will not pass through a 2.54 cm (1.0 in) diameter round opening and is present in the discharge from a wet storage facility.” Rule 2.408 states that the receiving waters shall have no “distinctly visible solids.” The water quality standard from Rule 2.408 is used as the permit limit because it is more stringent than the requirements in 40 C.F.R. § 429.103. The pH range is identical in Rule 2.504 and 40 C.F.R. § 429.103.

In accordance with Subpart K – Sawmills and Planning Mills Subcategory (40 C.F.R. § 429.123), there shall be no discharge of process wastewater pollutants from the operations covered by this subpart into navigable waters. As defined in 40 C.F.R. § 429.11(c), the term “process wastewater” specifically excludes non-contact cooling water, material storage yard runoff, and boiler blowdown. For the purposes of this permit, kiln condensate is considered equivalent to boiler blowdown.

F. Minerals (Chloride, Sulfate, and Total Dissolved Solids)

DEQ has reviewed historical information submitted by the permittee regarding the amounts of minerals present in the effluent. The concentration of each mineral after mixing with the receiving stream was compared to the applicable water quality standards as established in APC&EC Rule 2.

From these standards, only chlorides, sulfates, and total dissolved solids (TDS) have specific numerical criteria. Chlorides were not evaluated because there was no effluent data available for this facility. The complete minerals evaluation can be viewed on the Division’s website at the following address:

https://www.adeq.state.ar.us/downloads/WebDatabases/PermitsOnline/NPDES/PermitInformation/AR0052507_Mineral%20Calculations_20210217.pdf

The following information was used in calculating the In-stream Waste Concentration (IWC) for each mineral:

Parameter	Value	Source
Effluent Flow	0.1582 MGD = 0.2444 cfs	Design Flow
Harmonic Mean Flow for Sulfates	0.0865	USGS Streamstats
Critical Flow for TDS	4 cfs	Rule 2.511(A)
Sulfates Background	13 mg/l	Ecoregion Value
TDS Background	67 mg/l	Ecoregion Value
Effluent Sulfates	1.8 mg/l	Effluent Samples ¹
Effluent TDS	83 mg/l	Effluent Samples ¹

¹Average of 16 samples collected between December of 2018 and September of 2020.

The concentration of each mineral after mixing with the receiving stream was compared to the applicable water quality standards as established in Rule 2.511. Rule 2.511(A) contains site-specific mineral criteria for Gum Creek. The chloride and TDS criteria were modified as part of a use attainability analysis (UAA). The sulfate criterion is specified as the ecoregion criterion, which was calculated as 4/3 of the ecoregion reference stream value listed in Rule 2.511(B). In accordance with the definition of “Critical Flow” in Rule 2.106, the sulfate criterion was evaluated at the harmonic mean flow, and the TDS criterion was evaluated at 4 cfs. Domestic water supply criteria are not applicable to Gum Creek because the domestic water supply use has been removed. Calculations were done in accordance with the CPP. The following table represents the comparison of IWCs to WQS.

Pollutant	IWC, mg/l	Site-specific Mineral Criteria, mg/l
Chlorides	*	104
Sulfates	4.7	41.3
TDS	67.9	311

*no data available

For sulfates and TDS, there was no reasonable potential for the discharge from this facility to cause or contribute to an exceedance of the criteria. Although there was no effluent data for chlorides, chlorides are a subset of total dissolved solids. Therefore, the IWC chloride concentration must be less than the IWC TDS concentration (i.e. <67.9 mg/l). Because this is below the criterion of 104 mg/l, there is no reasonable potential for this facility to cause or contribute to an exceedance of the chloride criterion. Therefore, no limitations for chlorides, sulfates, or TDS are required at this time.

The monitoring requirement for sulfates has been removed because there is no reasonable potential for this facility to cause or contribute to an exceedance of the criterion and the receiving waters are not listed as impaired for this parameter.

In accordance with Item 5 of the Administrative Guidance Document in Section IX of the CPP (Page IX-7), a facility whose receiving streams' dissolved minerals criteria are amended under the water quality standards revision policy to reflect existing discharge conditions shall be required to monitor and report its effluent dissolved minerals concentrations in NPDES permits. The chloride and TDS standards were amended under this policy, so a monitor and report requirement has been added for chlorides and continued for TDS.

12. STORMWATER REQUIREMENTS

The federal regulations at 40 C.F.R. § 122.26(b)(14) require certain industrial sectors to have NPDES permit coverage for stormwater discharges from the facility. These requirements include the development and implementation of a Stormwater Pollution Prevention Plan (SWPPP) to control the quality of stormwater discharges from the facility. This facility was issued stormwater permit coverage under NPDES Tracking number ARR001650.

13. SAMPLE TYPE AND FREQUENCY

Regulations require permits to establish monitoring requirements to yield data representative of the monitored activity [40 C.F.R. § 122.48(b)] and to ensure compliance with permit limitations [40 C.F.R. § 122.44(i)(1)].

Requirements for sample type and sampling frequency have been based on the previous discharge permit, except as follows:

- A. The monitoring requirements for sulfate have been removed.
- B. The monitoring frequency for TDS has been reduced to once/year because the facility has shown no reasonable potential to cause or contribute to a criteria exceedance for TDS. Furthermore, the UAA for Gum Creek shows that this facility (owned by Georgia Pacific at the time of the study) was not expected to be a source of the elevated minerals concentrations in Gum Creek.
- C. The monitoring frequency for chlorides was based on that of TDS. The facility has also shown no reasonable potential to cause or contribute to a criteria exceedance for chlorides.

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
Flow	twice/week	instantaneous	twice/week	instantaneous

Parameter	Previous Permit		Final Permit	
	Frequency of Sample	Sample Type	Frequency of Sample	Sample Type
CBOD ₅	once/month	grab	once/month	grab
TSS	once/month	grab	once/month	grab
NH ₃ -N	once/month	grab	once/month	grab
DO	once/month	grab	once/month	grab
Chlorides	N/A	N/A	once/year	grab
Sulfates	once/month	grab	N/A	N/A
TDS	once/month	grab	once/year	grab
Debris	twice/week	visual	twice/week	visual
O&G	once/month	grab	once/month	grab
pH	once/month	grab	once/month	grab

14. PERMIT COMPLIANCE SCHEDULE

A Schedule of Compliance has not been included in this permit.

15. MONITORING AND REPORTING

The applicant is at all times required to monitor the discharge on a regular basis and report the results monthly. The monitoring results will be available to the public.

16. SOURCES

The following sources were used to draft the permit:

- A. [*Permit Modification Application No. AR0052507 received June 24, 2022, with all additional information received by July 6, 2022.*](#)
- B. [*Application No. AR0052507 received November 11, 2020, with all additional information received by November 18, 2020.*](#)
- C. Arkansas Water Quality Management Plan (WQMP).
- D. APC&EC Rule 2.
- E. APC&EC Rule 3.
- F. APC&EC Rule 6, which incorporates by reference certain federal regulations included in Title 40 of the Code of Federal Regulations at Rule 6.104.
- G. 40 C.F.R. Parts 122 and 125.
- H. 40 C.F.R. Part 429
- I. Discharge permit file AR0052507.
- J. Discharge Monitoring Reports (DMRs).
- K. "2018 Integrated Water Quality Monitoring and Assessment Report," DEQ.
- L. "2018 List of Impaired Waterbodies (303(d) List)," DEQ, May 2020.
- M. USGS Streamstats web-based application.
- N. Continuing Planning Process (CPP).

- O. Technical Support Document for Water Quality-based Toxic Control.
- P. “Bayou de Loutre TMDL for Dissolved Oxygen,” by FTN Associates, Ltd., May 28, 2002
- Q. [“Use Attainability Analysis for Great Lakes Chemical Corporation – Main” by FTN Associates, Ltd., September 30, 1991.](#)
- R. [Inspection Report dated February 20, 2019.](#)
- S. [Compliance Review Memo dated February 8, 2021.](#)
- T. [Planning Review Memo dated February 9, 2021.](#)
- U. [NPDES Permit Rating Spreadsheet \(MRAT\) dated February 8, 2021.](#)
- V. [Minerals Evaluation dated February 17, 2021.](#)
- W. [Water Quality Model dated March 11, 2020 \(and reviewed on March 8, 2023\).](#)
- X. [EPA Response Letter dated June 29, 2021.](#)
- Y. [Compliance Review Memo dated September 1, 2022.](#)
- Z. [EPA No Objection to Preliminary Draft Permit Letter, dated November 30, 2023, from Mark Hayes of EPA to Bryan Leamons of DEQ.](#)

17. PUBLIC NOTICE

The public notice of the draft permit was published for public comment on December 24, 2023. The last day of the comment period was thirty (30) days after the publication date. No public comments were received on the draft permit.

A copy of the draft permit and public notice was sent via email to the Louisiana Department of Environmental Quality, the Corps of Engineers, the Regional Director of the U.S. Fish and Wildlife Service, the Arkansas Department of Parks, Heritage, and Tourism, the EPA, and the Arkansas Department of Health.

18. PERMIT FEE

In accordance with Rule 9.403(G), the annual fee for the permit is \$300.

In accordance with Rule 9.403(D)(b), the fee for a major modification for a minor non-municipal (i.e., industrial) facility is \$2,000.

19. POINT OF CONTACT

For additional information, contact:

Terry Liu, P.E.
Permits Branch, Office of Water Quality
Division of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317
Telephone: (501) 682-0653

