

On January 13, 2006, River Valley Regional Water District filed a Petition to Initiate Third Party Rulemaking to Amend Regulation No. 2, Water Quality Standards. Pursuant to Ark. Code Ann. § 8-4-202(c), the Arkansas Pollution Control and Ecology Commission (“Commission”) has sixty (60) days in which to either institute rulemaking proceedings or to give written notice denying the petition for rulemaking. The Petition has been designated as Docket No. 06-003-R

The Commission’s Regulations Committee met on January 27, 2006 and voted to refer River Valley’s Petition to the Full Commission without any recommendation. In connection with its Petition, River Valley proposed adoption of the following procedural schedule so consideration of this matter may proceed in an efficient and orderly manner.

1. River Valley shall file an original and twenty-five (25) copies and a disk containing all materials required under this Minute Order. Any other party filing any pleading in this docket with the Commission Secretary shall file an original and two (2) copies and a disk containing the pleading and all other materials filed with it; and the party shall serve on River Valley a copy of the pleading and all materials filed with the Commission.

2. Persons submitting written public comments shall submit their written comments to the ADEQ. Within ten (10) business days following the adoption or denial of the proposed rule, the ADEQ shall deliver the originals of all comments to the Commission Secretary.

3. River Valley has filed with the Petition a black-lined version of the section of Regulation No. 2 which will be amended by the proposed rule. The Commission solicits public comment regarding but not limited to the black-lined language proposed by River Valley, alternate standards for allowing significant physical alterations of the habitat within extraordinary resource waters for the purpose of providing for drinking water needs, and the effect of the state and federal antidegradation policies on this proposed rulemaking.

4. River Valley has submitted to the ADEQ’s public affairs office, the following:

a. A proposed public notice to be used in mailing notice to interested persons, for publishing in appropriate industry, trade, or professional publications as the Commission may select. The proposed public notice may, in the ADEQ’s discretion, be approved for use or the ADEQ may choose to prepare its own public notice. The public notice shall conform to the requirements of Regulation No. 8, Section 3.1.3. The public notice shall be published not later than 45 days prior to the first public hearing.

By agreement, River Valley shall pay the costs of the newspaper publications and the costs of the appropriate industry, trade, or

professional publications chosen by the Commission. River Valley shall file only the original proof of publication with the Commission. The ADEQ shall be responsible for mailing the public notice to all persons who have requested advance notice of rulemaking proceedings and the cost of the mailing.

- b. Sixty-five (65) copies of the executive summary of the proposed rulemaking.
- c. Eight (8) bound copies of the Petition and all supporting documentation.

5. Four public hearings on the proposal shall be conducted between March 27, 2006, and April 21, 2006, in the cities of Van Buren, Mountain Home, and Little Rock, and either Fayetteville or Springdale. The exact date, time, and location for each hearing will be determined by the ADEQ Public Outreach and Assistance Division (“POA”), after consultation with representatives of River Valley and the ADEQ. Every practical effort is to be made by the POA Division to schedule no more than one hearing per week during the March 27-April 21 time frame.

6. The period for receiving all written comments by the public, River Valley and the ADEQ shall conclude ten (10) business days after the last of the four public hearings pursuant to Regulation No. 8, Part 3, Section 2.2.3, unless an extension of time is granted.

7. River Valley and the ADEQ shall each file, not later than May 29, 2006 a Statement of Basis and Responsiveness Summary as required by Regulation No. 8, Part 3, Section 3.6.2(1), (2) and (3).

8. River Valley and the ADEQ shall each file not later than October 13, 2006 a proposed Minute Order deciding the matter.

9. The ADEQ shall seek review of the proposed rule from the Joint Interim Committee on Public Health and Welfare and/or from the Joint Interim Committee on Administrative Rules and Regulations.

10. The Regulations Committee will consider only this matter at meeting to be scheduled for the morning of October 26, 2006. Members of the Regulations Committee may ask questions of any persons that made oral or written comments. The Regulations Committee will make a recommendation to the Commission.

11. The Commission will consider only this matter at a Special Meeting to be scheduled October 26, 2006. At that Special Meeting, the presentation of oral statements and legal arguments will be regulated as follows:

- a. The Chair of the Commission will permit members of the public to make a statement to the Commission. No more than three (3) minutes will be allowed for each statement. The period for statements will close at the end of one (1) hour, or sooner if all interested persons have completed their statements. At the discretion of the Chair, the one (1) hour oral statement period may be extended.
- b. At the discretion of the Chair, an attorney representing one or more individuals, a corporation or other legal entity may be permitted five (5) minutes in which to address the Commission.
- c. Legal counsel or other designated persons representing River Valley and the ADEQ shall be permitted ten (10) minutes in which to address the Commission.
- d. At the conclusion of all statements, the Chair will call on each Commissioner for the purpose of asking the attorneys or persons sponsoring statements who are present, any questions they may have. Attorneys will not be permitted to respond or ask follow-up questions of any person questioned by a Commissioner.

After each Commissioner has had an opportunity to ask questions, the Chair will entertain a motion on the matter, allow discussion, and call for a vote of the Commission members.

12. If River Valley desires a transcript of the public hearing, Regulations Committee meeting, and Commission meetings, or if required by the Commission, River Valley agrees to pay all costs for the preparation of a transcript of the public hearings, Regulations Committee

ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION

SUBJECT-Regulation No. 2
Water Quality Standards
Third-Party Rulemaking
RIVER VALLEY REGIONAL WATER DISTRICT
2806 BRYAN ROAD
VAN BUREN, AR

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meetings and Commission meetings which concern this docket and occur after the adoption of this Minute Order. If transcript of the rulemaking proceedings is required, the court reporter will be employed by River Valley, and the court reporter shall deliver the original transcript to the Commission Secretary.

13. The Commission authorizes the Chair of the Regulations Committee, in consultation with the Chair of the Commission, to revise the procedures and schedules set out above.

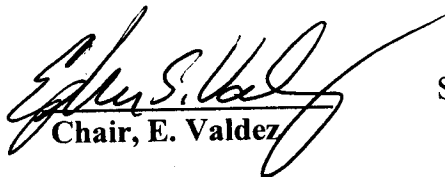
14. Executive Order 05-04 requires that the Commission determine whether a proposed rule affects small businesses. Based on the information contained in the Petition and the explanation given by River Valley and its counsel, the Commission finds the proposed amendment to Regulation No. 2 does not affect small businesses. Therefore, the Commission concludes that the procedures set forth in Executive Order 05-04 are not applicable to the proposed amendment to Regulation No. 2.

Having considered the Petition and the written and oral comments, thereon, the Commission hereby initiates the rulemaking proceeding in this docket. The Commission also adopts, without modification, the procedural schedule set forth above.

COMMISSIONERS:

<u>BA</u>	B. Ackerman
<u>BY</u>	L. Bengal
<u>RSC no</u>	S. Henderson
<u>CMC no</u>	C. McGrew
<u>RQ Keuse</u>	R. Quillin
<u>DR</u>	D. Samples
<u>Rearse</u>	T. Schueck

<u>JTS</u>	J. Shannon
<u>LS</u>	L. Sickel
<u>WBT</u>	W. Thompson
<u>E. Valdez</u>	E. Valdez
<u>BW</u>	B. White
<u>R. Young</u>	R. Young


Chair, E. Valdez

Submitted By: Allan Gates

DATE PASSED: 01/27/06