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**BEFORE THE ARKANSAS COMMISSION ON
POLLUTION CONTROL & ECOLOGY**

**IN RE: REQUEST BY EL DORADO)
CHEMICAL COMPANY TO)
INITIATE RULEMAKING TO AMEND) DOCKET NO. 06-009-R
REGULATION NO. 2)**

**PETITION TO RE-OPEN THIRD-PARTY
RULEMAKING TO AMEND REGULATION NO. 2**

Petitioner, El Dorado Chemical Company (EDCC), for its Petition to Re-Open Third-Party Rulemaking to Amend Regulation No. 2 ("Petition") states:

1. The initial Petition to Initiate Third-Party Rulemaking to Amend Regulation No. 2 was filed August 31, 2006 pursuant to Section 2.306 of Arkansas Pollution Control and Ecology Commission (APCEC) Regulation No. 2, Section 3.4 of APCEC Regulation No. 8 and the Continuing Planning Process. EDCC requested requesting modifications to the chloride, sulfate and total dissolved minerals (TDS) criteria of the Arkansas Water Quality Standards (WQS) and removal of the designated, but not existing, domestic water supply use for (a) an unnamed tributary to Flat Creek to the mouth of Salt Creek ("UTA"); (b) an unnamed tributary to Flat Creek from EDCC Outfall 001 discharge to the confluence with unnamed tributary of Flat Creek ("UTB"); (c) certain sections of Flat Creek; and (d) certain sections of Haynes Creek.

2. The rulemaking was approved by the Commission on June 22, 2007, Minute Order 07-19, and submitted to EPA for approval (EPA must approve all changes to Regulation No. 2 before such changes are effective). On April 14, 2009 EPA disapproved the rule, as submitted, and identified additional information that was required to support the rule. In

particular, EPA requested that EDCC:

(a) develop additional information through an updated literature review on dissolved mineral toxicity;

(b) conduct additional whole effluent toxicity testing utilizing spiked samples to simulate the concentrations approved in the rule;

(c) complete modeling of the toxicity impacts of the dissolved minerals on the receiving stream.

The additional work requested by EPA has been completed, and a report has been submitted to ADEQ. A copy of the report is attached hereto as Exhibit "A" and incorporated herein.

3. Based on the additional information, and discussions with EPA, EDCC has determined that portions of the rule are no longer necessary, and EDCC requests that the rule initially promulgated by the Commission be revised to remove some of the changes initially proposed and approved. In particular, EDCC requests that the following modifications to Regulation 2 that were approved through Minute Order 07-19 be rescinded:

a. modify the dissolved minerals criteria for Flat Creek from mouth of the unnamed tributary ("UTA") to the mouth of Haynes Creek as follows:

TDS from 123 mg/L to 560 mg/L
Sulfate from 31 mg/L to 67 mg/L
Chloride from 14 mg/L to 165 mg/L

b. modify the dissolved minerals criteria for Haynes Creek from confluence of Flat and Salt Creeks downstream to confluence with Smackover Creek as follows:

TDS from 123 mg/L to 855 mg/L
Sulfate from 31 mg/L to 55 mg/L
Chloride from 14 mg/L to 360 mg/L

4. Because additional information is being offered in support of the rule previously

adopted, and because portions of the rule previously adopted are proposed for rescission, a public hearing should be conducted.

5. The Questionnaire for Filing Proposed Rules and Regulations with the Arkansas Legislative Council and Joint Interim Committee is attached hereto as Exhibit "B" and is incorporated herein.

6. The Financial Impact Statement is attached hereto as Exhibit "C" and is incorporated herein.

7. The Economic Impact/Environmental Benefit Analysis is attached hereto as Exhibit "D" and is incorporated herein.

8. EDCC has reviewed Executive Order 05-04 and has determined that the request herein does not affect small business for the following reasons: (a) this action does not initiate the rulemaking but rather re-opens a previously initiated rulemaking for the purpose of rescinding part of the previously adopted rule; (b) there are no commercial operations located on or adjacent to the affected watercourses which use the waters; (c) by rescinding part of the previously enacted rule, this action will not increase the loadings of the affected watercourses but rather will reduce the authorized loadings for segments of Flat Creek and Haynes Creek and re-set the WQS at their prior levels; and (d) the aquatic life studies of the affected stream segments demonstrate maintenance of designated fishery use. Therefore no economic impact analysis by the Arkansas Department of Economic Development is required.

16. The Minute Order to re-open the rulemaking and schedule a public hearing is attached hereto as Exhibit "E" and is incorporated herein.

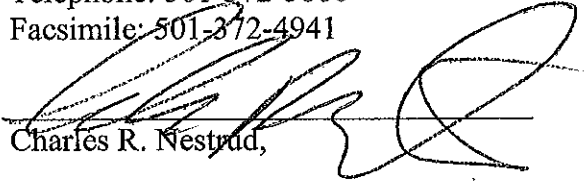
WHEREFORE, El Dorado Chemical Corporation, requests that the Commission re-open

the rulemaking and amend Regulation No. 2 in the manner requested in Paragraph 7, above.

Respectfully Submitted

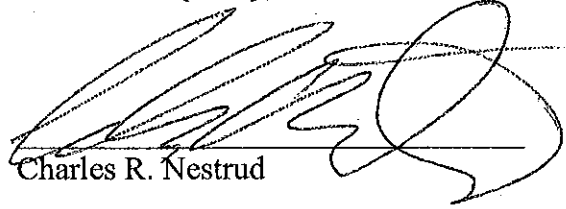
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By:


Charles R. Nestrud,

CERTIFICATE OF SERVICE

I, Charles R. Nestrud, state that I have, on this 7th day of July, 2010, hand-delivered a copy of the foregoing Petition to RE-Open Third-Party Rulemaking to Amend Regulation No. 2 to Ms. Jamie Ewing, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, AR 72219.



Charles R. Nestrud