

**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)**

REQUEST FOR ADOPTION OF PROPOSED CHANGE TO REGULATION NO. 2

El Dorado Chemical Company (EDCC), in support of its request for the adoption of proposed changes to the Arkansas Pollution Control and Ecology Commission's (APCEC) Regulation No. 2 to amend the water quality standards for certain designated stream segments, submits the following:

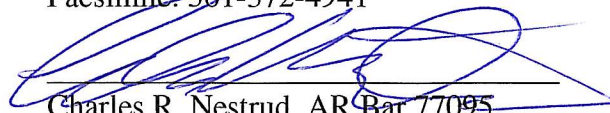
1. Attached hereto as Exhibit "A" are the copies of the cover page and the pages of APCEC Regulation No. 2 as they will appear if the Commission grants EDCC's rulemaking request.
2. Attached hereto as Exhibit "B" is a copy of EDCC's proposed Minute Order adopting the changes to APCEC Regulation No. 2 requested by EDCC.

Wherefore, Petitioner El Dorado Chemical Company respectfully requests the Commission to adopt by Minute Order the proposed changes to APCEC Regulation No. 2.

Respectfully submitted,

CHISENHALL, NESTRUD & JULIAN, P.A.
400 West Capitol, Suite 2840
Little Rock, AR 72201
Telephone: 501-372-5800
Facsimile: 501-372-4941

By:



Charles R. Nestrud, AR Bar 77095
Attorneys for EDCC Contracting Co., Inc

CERTIFICATE OF SERVICE

I, Charles R. Nestrud, state that I have, on this 17 day of November, 2010, hand-delivered a copy of the foregoing Request for Adoption of Proposed Change to Regulation No. 2 to Ms. Jamie Ewing, Arkansas Department of Environmental Quality, 5301 Northshore Drive North Little Rock, AR 72118.



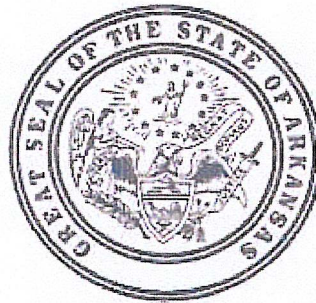
Charles R. Nestrud

EXHIBIT “A”

APCEC Regulation No. 2

Arkansas Pollution Control
& Ecology Commission
#014.-002

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



REGULATION NO. 2

REGULATION ESTABLISHING WATER
QUALITY STANDARDS FOR SURFACE
WATERS OF THE STATE OF ARKANSAS

DRAFT

Submitted to the
Arkansas Pollution Control
and Ecology Commission
August, 2006

Arkansas Pollution Control and Ecology Commission
Regulation No. 2, As Amended

**Regulation Establishing
Water Quality Standards for Surface Waters
of the State of Arkansas**

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REGULATION 2 BLACK LINE

Pollution Control and Ecology Commission 014.00-002

Stream	Concentration-mg/L		
	Cl ⁻	SO ₄	TDS
Ouachita River Basin			
Bayou Bartholomew	50	20	500
Clumin-A- Haut Creek	50	20	500
Overflow Creek	20	30	170
Bayou Macon	30	40	330
Boeuf River	90	30	500
Big Cornie Creek	230	30	500
Little Cornie Creek	200	10	400
Three Creeks	250	10	500
Little Cornie Bayou	200	20	500
Walker Branch	180	ER	970
Gum Creek	104*	ER	311*
Bayou de L'Outre above Gum Creek	250	90	500
Bayou de L'Outre below Gum Creek	250	90	750
Ouachita River (Louisiana Line to Camden)	160	40	350
Saline River	20	40	120
Saline River east bifurcation at Holly Creek	ER	250	500
Hurricane Cr above Hurricane Lake Dam	20	250	500
Hurricane Cr from Hurricane Lk. Dam to Ben Ball Brdg	125	730	1210
Ben Ball Bridge to Hwy 270	125	700	1200
Hwy 270 to Saline River	100	500	1000
Alcoa unnamed tribs to Hurricane Cr.	125	700	1100
Dry Lost Creek and tribs	ER	560	880
Lost Creek to Little Lost Creek	ER	510	820
Lost Creek below Little Lost Creek	ER	300	550
Holly Creek	30	860	1600
Moro Creek	30	20	260
Smackover Creek	250	30	500
Haynes Creek from mouth of Flat Creek to confluence with Smackover Creek	200*	55*	825*
Flat Creek from mouth of UTR to confluence with Haynes Creek	155	07	268
Unnamed trib A to Flat Creek from mouth of EDCC 001 ditch to confluence with Flat Creek	16*	80*	315*
Unnamed trib to Flat Creek from EDCC Outfall 001 to confluence with unnamed tributary A to Flat Creek	23*	125*	475*
Ouachita River (Camden to Carpenter Dam)	50	40	150
Town Creek below Acme tributary	ER	200	700
Unnamed trib from Acme	ER	330	830
Little Missouri River	10	90	180
Muddy Fork Little Missouri	ER	250	500
Bluff Creek and unnamed trib.	ER	651*	1033*
Garland Creek	250	250	500
South Fork Caddo	ER	60	128
Buck Valley Creek	ER	250	500
Ouachita River (Carpenter Dam to Headwaters, including Lake Ouachita tributaries)	10	10	100
Red River Basin			
Bayou Dorchest	100	16*	250

<u>Stream</u>	<u>Concentration-mg/L</u>		
	<u>Cl⁻</u>	<u>SO₄²⁻</u>	<u>TDS</u>
Albemarle unnamed trib (AUT) to Horsehead Creek	137*	ER	383*
Horsehead Creek from AUT to mouth	85*	ER	260*
Cypress Creek	250	70	500
Crooked Creek	250	10	500
Dismukes Creek	26	ER	157
Big Creek from Dismukes to Bayou Dorcheat	20	ER	200
Bois d'Arc Creek from Caney Creek to Red River	113*	283*	420*
Caney Creek	113*	283*	420*
Bodcau Creek	250	70	500
Poston Bayou	120	40	500
Kelley Bayou	90	40	500
Red River from Oklahoma to confluence with Little River	250	200	850
Red River from Little River to Louisiana	250	200	500
Sulphur River	120	100	500
Days Creek	250	250	500
McKinney Bayou	180	60	480
Little River	20	20	100
Saline River	20	10	90
Mine Creek from Hwy 27 to Millwood Lake	90	65	700
Cossatot River	10	15	70
Upper Rolling Fork	20	20	100
Rolling Fork from unnamed trib A to DeQueen Lake	130	70	670
Unnamed tribs A and A1 at Grannis	135	70	700
Mountain Fork	20	20	110
Mississippi River (Louisiana line to Arkansas River)	60	150	425
Mississippi River (Arkansas River to Missouri line)	60	175	450

ER - ecoregion standard

* - based on critical background flow of 4 cfs

Any modification of these values must be made in accordance with Reg. 2.306.

The following values determined from Arkansas' least-disturbed ecoregion reference streams are considered to be the maximum naturally occurring levels. For waterbodies not listed above, any discharge which results in instream concentrations more than 1/3 higher than these values for Cl and SO₄⁼ or more than 15 mg/l, whichever is greater, is considered to be a significant modification of the water quality. Similarly, such modification exists if the following TDS values are exceeded after being increased by the sum of the increases to Cl and SO₄. Such modifications may be made only in accordance with Reg. 2.306.

REGULATION 2 BLACK LINE

Pollution Control and Ecology Commission 014.00-002

Variations Supported by UAA*

- Louise Creek - from headwaters to railroad bridge, critical season D.O. standard - 3 mg/l, primary season - 5 mg/l, from railroad bridge to mouth, critical season D.O. - 2 mg/l (GC-2, #1)
- Unnamed tributary to Smackover Creek - headwaters to Smackover Creek, year round D.O. criteria - 2 mg/l (GC-2, #2)
- Unnamed tributary to Flat Creek - from headwaters to Flat Creek, year round D.O. criteria - 2 mg/l (GC-2, #4)
- Dodson Creek - from headwaters to confluence with Saline River, critical season D.O. standard - 3 mg/l (GC-4, #5)
- Jug Creek - from headwaters to confluence with Moro Creek, critical season D.O. standard - 3 mg/l (GC-2, #6)
- Lick Creek - from headwaters to Millwood Reservoir, critical season D.O. standard - 2 mg/l (GC-1, #7)
- Coffee Creek and Mussy Lake - exempt from Reg. 2.406 and Chapter Five (GC-3, #8)
- Red River from Oklahoma to confluence with Little River - total dissolved solids - 850 mg/l (GC-1, #9)
- Bluff Creek and unnamed trib. - sulfates 651 mg/l, total dissolved solids 1033 mg/l (GC-1, #10)
- Muddy Fork Little Missouri River - sulfates 250 mg/l; total dissolved solids 500 mg/l (GC-1, #24)
- Little Missouri River - sulfates 90 mg/l; total dissolved solids 180 mg/l (GC-1, #25)
- Mine Creek from Highway 27 to Millwood Lake - chlorides - 90 mg/l, sulfates - 65 mg/l, TDS - 700 mg/l (GC-1, #11)
- Caney Creek - chlorides 113 mg/l; sulfates 283 mg/l; total dissolved solids 420 mg/l (GC-1, #12)
- Bois d'Arc Creek from Caney Creek to Red River - chlorides 113 mg/l; sulfates 283 mg/l; dissolved solids 420 mg/l (GC-1, #13)
- Town Creek below Acme tributary - sulfates 200 mg/l; TDS 700 mg/l (GC-4, #14)
- Unnamed trib. from Acme - sulfates 330 mg/l; TDS 830 mg/l (GC-4, #14)
- Gum Creek - chlorides 104 mg/l; TDS 311 mg/l (GC-2, #15)
- Bayou de Louise from Gum Creek to State line - Chlorides 250 mg/l; TDS solids 750 mg/l (GC-2, #16)
- Walker Branch - chlorides 180 mg/l; total dissolved solids 970 mg/l (GC-2, #17)
- Ouachita River - from Ouachita River mile (ORM) 223 to the Arkansas-Louisiana border (ORM 221.1), site specific seasonal D.O. criteria: 3 mg/L June and July; 4.5 mg/L August; 5 mg/L September through May. These seasonal criteria may be unattainable during or following naturally occurring high flows, (i.e., river stage above 65 feet measured at the lower gauge at the Felsenthal Lock and Dam, Station No. 89-0, and also for the two weeks following the recession of flood waters below 65 feet), which occurs from May through August. Naturally occurring conditions which fail to meet criteria should not be interpreted as violations of these criteria (GC-3, #26)
- Alcoa unnamed trib. to Hurricane Cr. And Hurricane Cr. - see Reg. 2.511 (CG-4, #19)
- Holly Creek - See Reg. 2.511 (CG-4, #20)
- Saline River bifurcation - see Reg. 2.511 (GC-4, #23)
- Dry Lost Creek and tributaries - see Reg. 2.511 (GC-4, #21)
- Lost Creek - see Reg. 2.511 (GC-4, #22)
- Albemarle unnamed trib (AUT) to Horsehead Creek - chlorides 137 mg/l; TDS 383 mg/l (GC-2, #27)
- Horsehead Creek from AUT to mouth - chlorides 85 mg/l; TDS 260 mg/l (GC-2, #27)
- Bayou Dorcheat - sulfates 16 mg/l (GC-2, #27)
- Dismukes Creek - chlorides 26 mg/l; TDS 157 mg/l (GC-2, #28)
- Big Creek from Dismukes to Bayou Dorcheat - chlorides 20 mg/l; TDS 200 mg/l (GC-2, #28)
- Bayou de Louise from Great Lakes Outfall to Louise Creek - maximum water temperature 96°F (GC-2, #29)
- Unnamed tributary of Lake June below Entergy Couch Plant to confluence with Lake June - maximum water temperature 95 degrees F (limitation of 5 degrees above natural temperature does not apply) (GC-1, #30)
- Unnamed tributary to Flat Creek from EDCC Outfall 001 d/s to confluence with unnamed tributary A to Flat Creek - Chloride 23 mg/L, Sulfate 125 mg/L, TDS 475 mg/L (GC-2, #37)
- Unnamed tributary A to Flat Creek from mouth of EDCC 001 ditch to confluence with Flat Creek - Chloride 16 mg/L, Sulfate 80 mg/L, TDS 315 mg/L (GC-2, #38)
- ~~Flat Creek from mouth of Flat Creek to confluence with Haynes Creek - Chloride 165 mg/L, Sulfate 67 mg/L, TDS 500 mg/L (GC-2, #39)~~
- ~~Haynes Creek from mouth of Flat Creek to confluence with Smackover Creek - Chloride 360 mg/L, Sulfate 55 mg/L, TDS 875 mg/L (GC-2, #40)~~

*Note: numbers 31-36 are reserved for proposed 3rd party rule making by Great Lakes Chemical Company.

Plate GC-2 (Gulf Coastal Plain)

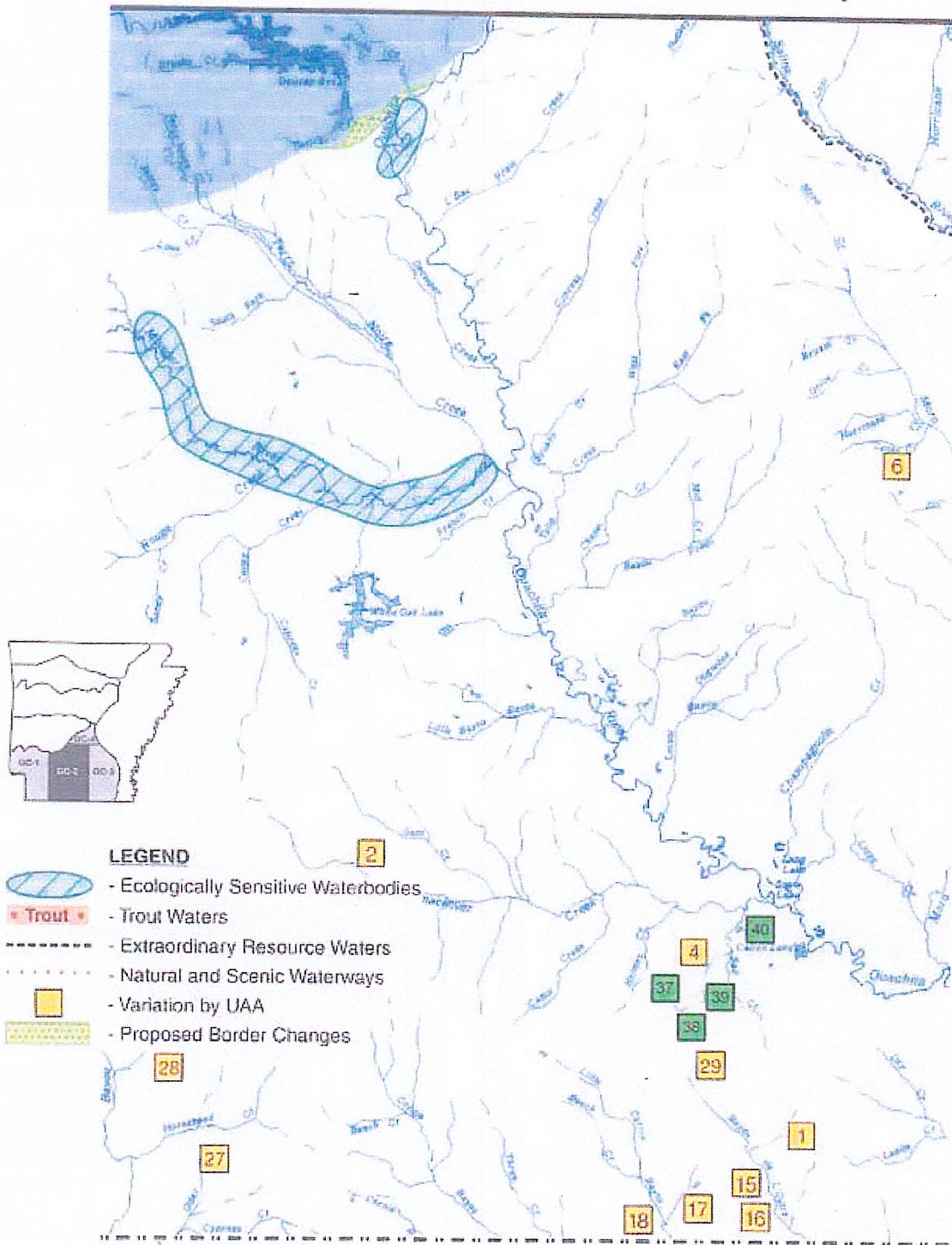


EXHIBIT “B”

Proposed Minute Order

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT-Regulation No. 2
Water Quality Standards
Third-Party Rulemaking
EL DORADO CHEMICAL
EL DORADO, AR**

DOCKET NO. 06-009-R

MINUTE ORDER NO. 10-_____

PAGE 1 OF 3

On August 31, 2006, El Dorado Chemical Company (“EDCC”) Inc. filed a Petition to Initiate Third Party Rulemaking to Amend Regulation No. 2, Water Quality Standards (“Petition”). The rulemaking was approved by the Commission through Minute Order 07-19, but was not approved by EPA. On July 7, 2010 EDCC filed a petition to re-open the rulemaking to provide public comment on additional information prepared in support of the previously enacted rule, and to rescind part of the rule, and to otherwise address EPA’s comments.

Arkansas Pollution Control and Ecology Commission Minute Order No. 06-009-R authorized the initiation of rulemaking. One public hearing and a 45-day public comment period were held. In accordance with Regulation No. 8, a Statement and Basis and Purpose as well as a Responsiveness Summary were prepared for Commission review.

It is therefore, ORDERED:

1. 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

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT-Regulation No. 2
Water Quality Standards
Third-Party Rulemaking
EL DORADO CHEMICAL**

DOCKET NO. 06-009-R

MINUTE ORDER NO. 10-____

PAGE 2 OF 3

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2. That the Statement of Basis and Purpose and the Responsiveness Summary submitted by EDCC and the Statement of Basis and Purpose and Responsiveness Summary submitted by ADEQ are adopted by the Commission as part of this rulemaking proceeding.
 3. That the ADEQ staff is directed to make these changes to Regulation No. 2.

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**

**SUBJECT-Regulation No. 2
Water Quality Standards
Third-Party Rulemaking
EL DORADO CHEMICAL**

DOCKET NO. 06-009-R

MINUTE ORDER NO. 10-__

PAGE 3 OF 3

**PROMULGATED THIS ____ DAY OF _____, 2010 BY ORDER OF THE
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION**

**ATTEST: _____
Teresa Mark, Director**

APPROVED: _____

COMMISSIONERS:

_____ **J. Simpson**
_____ **D. Hendrix**
_____ **L. Bengel**
_____ **S. Henderson**
_____ **C. McGrew**
_____ **D. Samples**

_____ **J. Chamberlin**
_____ **J. Shannon**
_____ **L. Sickel**
_____ **E. Valdez**
_____ **B. White**
_____ **R. Young**

Chair, W. Thompson

Submitted by: Charles R. Nestrud

DATE PASSED: _____