

# EXHIBIT G

## Minute Order & Public Notice

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**SUBJECT-Regulation No. 2  
Water Quality Standards  
Third-Party Rulemaking  
LION OIL COMPANY  
El Dorado, AR**

**MINUTE ORDER NO. 06-\_\_\_\_**

**DOCKET NO. \_\_\_\_\_**

**PAGE 1 OF 4**

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On October 13, 2006, Lion Oil Company (Lion) filed a Petition to Initiate Third Party Rulemaking to Amend Regulation No. 2, Water Quality Standards ("Petition"). 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 Commission's Regulations Committee met on October 27, 2006 to review Lion's Petition. Having considered the Petition, the Regulations Committee recommends the Commission institute a rulemaking proceeding to consider adopting the proposed revision to Regulation No. 2. The Regulations Committee also proposes adoption of the following procedural schedule so consideration of this matter may proceed in an efficient and orderly manner.

1. Lion and the Arkansas Department of Environmental Quality ("ADEQ") shall file an original and twenty-five (25) copies of all materials required under this Minute Order. Each party shall serve the other with the materials filed. This requirement does not apply to transcripts.

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. Lion has filed with the Petition a black-lined version of the section of Regulation No. 2 which will be amended by the proposed rule.

4. Lion 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 public hearing. By agreement, Lion shall pay the costs of the newspaper publications

and the costs of the appropriate industry, trade, or professional publications chosen by the Commission. Lion 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. A public hearing or hearings shall be conducted the week of \_\_\_\_\_ 2006 in Union County, Arkansas. The exact date, time and location of the public hearing will be determined by the ADEQ's Public Affairs office.

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

7. Lion and the ADEQ shall each file, not later than \_\_\_\_\_, 2007 a Statement of Basis and Responsiveness Summary as required by Regulation No. 8, Part 3, Section 3.6.2(1), (2) and (3).

8. Lion and the ADEQ shall each file not later than \_\_\_\_\_, 2007 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 this matter at its May, 2007 meeting unless this proposed rule has not been reviewed by the Joint Interim Committee on Public Health and Welfare and the Joint Interim Committee on Administrative Rules and Regulations. In the event that this proposed rule has not been reviewed by the Legislative Committees prior to the May, 2007 Regulations Committee meeting, this proposed rule shall be considered at the next

Regulations Committee meeting following the review by the appropriate Legislative Committees. 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. At the Commission's 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 of 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 Lion 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 Lion desires a transcript of the public hearing, Regulations Committee meeting, and Commission meetings, or if required by the Commission, Lion agrees to pay all

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**PAGE 4 OF 4**

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costs for the preparation of a transcript of the public hearing, Regulations Committee 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 Lion, 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 Lion 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.

The Commission accepts the recommendation of the Regulations Committee and initiates the rulemaking proceeding in this docket. The Commission adopts, without modification, the procedural schedule set forth above.

**COMMISSIONERS:**

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**R. Quillin  
B. Ackerman  
L. Bengel  
S. Henderson  
C. McGrew  
D. Samples**

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**T. Schueck  
J. Shannon  
L. Sickel  
W. Thompson  
B. White  
R. Young**

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**Chair, E. Valdez**

SUBMITTED BY: Ann P. Faitz

DATE PASSED: \_\_\_\_/06

## **NOTICE OF PROPOSED THIRD-PARTY RULEMAKING, PUBLIC HEARING**

The Arkansas Pollution Control and Ecology Commission (PC&EC) will hold a public hearing at El Dorado, Arkansas, on \_\_\_\_\_, to receive comments on a third-party proposal by Lion Oil Company (Lion) to change the Arkansas Water Quality Standards (PC&EC Regulation No. 2) for certain streams affected by the Lion wastewater discharge. The hearing will be at the South Arkansas Community College, East Campus, Center for Workforce Development Building, Room 121, 3698 E. Main, El Dorado.

Sections 3.4.1 through 3.4.4 of PC&EC Regulation No. 8 (Administrative Procedures), and the Arkansas Code, Annotated, Section 8-4-202(c) provide that outside parties may petition the PC&EC to initiate the rulemaking process to adopt or amend regulations under the PC&EC's jurisdiction. Arkansas Statute 8-4-201(3) authorizes the PC&EC to adopt water quality standards for the State of Arkansas.

The fact that the PC&EC has agreed to initiate such a third-party rulemaking procedure does not constitute an endorsement of the proposal at this time. The PC&EC will decide whether to adopt the proposed changes after the conclusion of the public comment period for the proposal and after Lion and the Arkansas Department of Environmental Quality (ADEQ) staff respond to all public comments submitted.

The Lion proposal would revise Regulation No. 2 as follows:

- Modify the chloride, sulfate and total dissolved minerals (TDS) criteria of the water quality standards for (i) Loutre Creek from Hwy 15 South (upstream terminus) to its confluence of Bayou de Loutre (the "Loutre Creek Segment"); and (ii) in Bayou de Loutre from the mouth of Loutre Creek downstream to the discharge from the City of El Dorado south waste water treatment facility;
- Modify sulfate and TDS criteria in Bayou de Loutre from the City's discharge, then downstream to the mouth of Boggy Creek;
- Modify sulfate criteria in Bayou de Loutre from the mouth of Gum Creek downstream to the state line;
- And, in addition, remove the designated, but not existing, domestic water supply use for: (a) the Loutre Creek Segment; and (b) Bayou de Loutre from the mouth of Loutre Creek to the mouth of Gum Creek.

Detailed copies of the proposed regulation change, along with support documents and summary information, are available for public inspection at the ADEQ's Little Rock office in the Public Outreach and Assistance Division, Building D, 8101 Interstate 30, and in ADEQ information depositories located in public libraries at El Dorado, Camden, Crossett, Magnolia, and Monticello. In addition, summary information concerning the proposal is available at other ADEQ information depositories located in public libraries at Arkadelphia, Batesville, Blytheville, Clinton, Fayetteville, Forrest City, Fort Smith, Harrison, Helena, Hope, Hot Springs,

Jonesboro, Little Rock, Mena, Mountain Home, Pocahontas, Russellville, Searcy, Stuttgart, Texarkana, and West Memphis; and in campus libraries at the University of Arkansas at Pine Bluff and the University of Central Arkansas at Conway, and in the Arkansas State Library located on the State Capitol grounds at Little Rock.

Information concerning the proposed changes also can be viewed and downloaded at the ADEQ's Internet web site at the following URL address: [www.adeq.state.ar.us](http://www.adeq.state.ar.us) .

Oral and written comments on the proposed change to Regulation No. 2 will be accepted at the hearing, but written comments are preferred in the interests of accuracy. In addition, written or electronic mail comments will be accepted if received no later than 4:30 p.m. \_\_\_\_\_, 2006. Written comments should be sent to Doug Szenher, public/media affairs manager, Arkansas Department of Environmental Quality, Public Outreach and Assistance Division, P.O. Box 8913, Little Rock, AR 72219-8913. Electronic mail comments should be sent to the following address: [reg-comment@adeq.state.ar.us](mailto:reg-comment@adeq.state.ar.us) .

Published \_\_\_\_\_, 2006,

Marcus C. Devine, Director,  
Arkansas Department of Environmental Quality