

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

<b>IN RE: REQUEST BY McGEORGE</b>	)	
<b>CONTRACTING CO., INC</b>	)	
<b>TO INITATE RULEMAKING TO AMEND</b>	)	<b>DOCKET NO.09-003-R</b>
<b>REGULATION NO. 2</b>	)	

**Statement of Basis and Purpose**

Petitioner, McGeorge Contracting Co. Inc. ("McGeorge") for its Motion for Approval of Third-Party Rulemaking to Amend Regulation No. 2 ("Petition") submits the following Statement of Basis and Purpose, which is joined in by the Arkansas Department of Environmental Quality.

McGeorge has operated a kaolin clay mine site in Little Rock, Pulaski County, Arkansas from approximately 2001, when it was purchased as an active kaolin clay mine from A.P. Green Industries, Inc., until present. Two active kaolin clay mine pits remain on the site.

Stormwater collects in the kaolin clay, pits, and is discharged as required through Outfalls 001 and 002, as authorized by the Arkansas Department of Environmental Quality (ADEQ) under McGeorge's National Pollutant Discharge Elimination System (NPDES) Permit No. AR00001503 (the "Permit."). Due to the close proximity of the outfalls with one another, they are treated as one with regards to the stream mineral concentrations and the proposed rulemaking changes described herein.

On November 1, 2004 McGeorge was issued a renewal of its Permit, which imposed, for the first time, ecoregion based effluent limitations for dissolved minerals; e.g. total dissolved solids (TDS). The ecoregion based effluent limitations for TDS in the Permit are based on ecoregion mineral criteria, and are 112.3 mg/l (monthly average) and 168.5 mg/l (daily max).

Previously the Permit included dissolved mineral effluent limitations based on secondary drinking water limits. The secondary drinking water based effluent limitation for TDS in the previous Permit were based on the maintenance of the designated, but not existing, domestic water supply use, and were 500 mg/l (monthly average) and 750 mg/l (daily max). Because the ecoregion based effluent limitations resulted in more stringent permit limits, McGeorge was given a compliance period to achieve compliance with the new, more restrictive, water quality based effluent limitations, with interim limits equivalent to the prior effluent limits being in effect during the compliance period. McGeorge proceeded to collect the information necessary to seek a change to the ecoregion based water quality standards applicable to the receiving streams. On January 23, 2009 McGeorge and ADEQ entered into Consent Administrative Order No. LIS 09-012 which extended the compliance period and interim limits pending completion of a third party rulemaking to revise the ecoregion based water quality limits, and to modify the Permit to incorporate the revised water quality standards.

Pursuant to APCEC Regulation No. 2, the watercourses at issue herein are assigned the following designated existing uses:

McGeorge Creek

- Secondary Contact Recreation (presumed as default)

Willow Creek Branch

- Primary and Secondary Contact Recreation (presumed as default)

Little Fourche Creek

- Primary and Secondary Contact Recreation (presumed as default)

Through this Petition, McGeorge is requesting the following amendments to APCEC

Regulation No. 2:

- a. modify the dissolved minerals criteria for the McGeorge Creek to confluence with Willow Springs Branch as follows:
  - Sulfate from 41.3 mg/L to 257 mg/L
  - TDS from 138 mg/L to 432 mg/L
- b. modify the dissolved minerals criteria for Willow Springs Branch between confluences with McGeorge Creek and Little Fourche Creek as follows:
  - Sulfate from 41.3 mg/L to 112 mg/L
  - TDS from 138 mg/L to 247 mg/L
- c. modify the dissolved minerals criteria for Little Fourche Creek between confluences with Willow Springs Branch and Fourche Creek as follows:
  - Sulfate: NO CHANGE
  - TDS from 138 mg/L to 179 mg/L

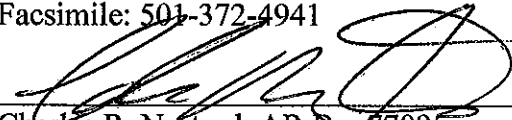
This rulemaking is supported by the following facts:

- The UAA Report shows that existing aquatic life is limited by habitat and will not be adversely affected by TDS and sulfate levels in McGeorge's discharge.
- There is no current economically feasible treatment technology for the removal of sulfate and TDS. Ion exchange and reverse osmosis treatment technologies do exist; however, these methods are not cost effective on a large scale basis, are prohibitively expensive, and generate concentrated brine which is environmentally difficult to dispose of. Such treatment technology is not required to meet the existing uses and would not add any significant environmental protection.
- Modification to the mineral criteria will not preclude the attainment of other designated and attainable uses (i.e. primary and secondary contact recreation, domestic, industrial and agricultural water supply).

Respectfully submitted

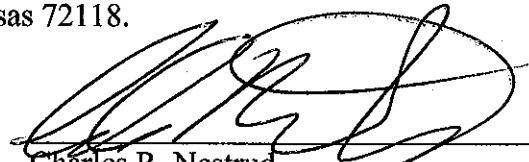
CHISENHALL, NESTRUD & JULIAN, P.A.  
400 West Capitol, Suite 2840  
Little Rock, AR 72201  
Telephone: 501-372-5800  
Facsimile: 501-372-4941

By:

  
Charles R. Nestrud, AR Bar 77095

**CERTIFICATE OF SERVICE**

I, Charles R. Nestrud, state that I have, on this 9th day of July, 2010 mailed a copy of the foregoing Motion to Jamie Ewing, Counsel, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, Arkansas 72118.

  
Charles R. Nestrud