

BEFORE THE ARKANSAS COMMISSION ON  
POLLUTION CONTROL & ECOLOGY

IN RE: REQUEST BY CITY WATER AND LIGHT )  
PLANT OF THE CITY OF JONESBORO )  
TO INITIATE RULEMAKING TO ) DOCKET NO. 10-004-R  
AMEND REGULATION NO. 2 )

2010 AUG 27 PM 3:12

AR POLUTION CONTROL  
& ECOLOGY COMMISSION  
FILED BY  
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MOTION FOR THE ADOPTION OF  
PROPOSED CHANGES TO REGULATION NO. 2

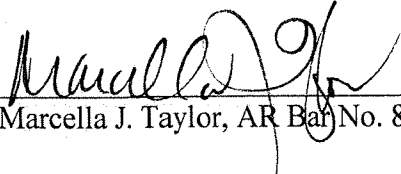
City Water and Light Plant of the City of Jonesboro ("CWL"), in support of its Motion for the Adoption of Proposed Changes to the Arkansas Pollution Control and Ecology Commission's (APCEC) Regulation No. 2 to amend the water quality standards for certain designated stream segments, submits the following:

1. Attached hereto as Exhibit "A" is CWL's Statement of Basis and Purpose which was filed on August 18, 2010 in accordance with the Commission's Minute Order No. 10-12.
2. Attached hereto as Exhibit "B" is CWL's Responsiveness Summary which was filed on July 6, 2010 in accordance with the Commission's Minute Order No. 10-12.
3. Attached hereto as Exhibit "C" is a copy of the pages of APCEC Regulation No. 2 as they will appear if the Commission grants CWL's rulemaking request.
4. Attached hereto as Exhibit "D" is the Regulations Tracking Sheet.
5. Attached hereto as Exhibit "E" is the Proposed Minute Order adopting the proposed revision to Regulation No. 2

WHEREFORE, Petitioner City Water and Light Plant of the City of Jonesboro respectfully requests the adoption by Minute Order of the changes to APCEC Regulation No. 2 sought by CWL in its Petition to Initiate Rulemaking to Amend Regulation No. 2 filed on april 9, 2010.

Respectfully submitted,

**MITCHELL, WILLIAMS, SELIG  
GATES & WOODYARD, P.L.L.C.**  
425 West Capitol Avenue, Suite 1800  
Little Rock, AR 72201  
(501) 688-8800


By   
\_\_\_\_\_  
Marcella J. Taylor, AR Bar No. 82156

**Attorneys for City Water and Light Plant  
of the City of Jonesboro**

**CERTIFICATE OF SERVICE**

I, Marcella J. Taylor, state that I have, on this 27<sup>th</sup> day of September, 2010, I served a copy of the foregoing Motion for the Adoption of Requested Changes to Regulation No. 2 on the following by United States Postal Service, postage prepaid and by electronic service:

Ms. Jamie Ewing  
Attorney Specialist  
Arkansas Department of Environmental Quality  
5301 Northshore Drive  
North Little Rock, AR 72118  
[ewing@adeq.state.ar.us](mailto:ewing@adeq.state.ar.us)

  
\_\_\_\_\_  
Marcella J. Taylor

# **EXHIBIT A**

## **STATEMENT OF BASIS AND PURPOSE**

BEFORE THE ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

2010 AUG 19 PM 3:31

RG

IN RE: REQUEST BY CITY WATER AND LIGHT )  
PLANT OF THE CITY OF JONESBORO )  
TO INITIATE RULEMAKING TO ) DOCKET NO. 10-004-R  
AMEND REGULATION NO. 2 )

CITY WATER AND LIGHT PLANT OF THE CITY OF JONESBORO'S  
STATEMENT OF BASIS AND PURPOSE

City Water and Light Plant of the City of Jonesboro ("CWL") for its Statement of Basis and Purpose, states:

1. The Arkansas Pollution Control and Ecology Commission (APCEC) is given the power and duty to promulgate rules and regulations implementing and effectuating the powers and duties of the Arkansas Department of Environmental Quality (ADEQ) and APCEC, including regulations prescribing water quality standards (WQS). ARK. CODE ANN. § 8-4-202(a) and (b).
2. ARK. CODE ANN. § 8-4-202(c) provides that any person has the right to petition the APCEC for an amendment of any rule or regulation. On April 9, 2010, CWL filed its Petition to Initiate Third-Party Rulemaking to Amend APCEC Regulation No. 2. CWL's Petition was submitted pursuant to, and in compliance with Section 2.306 of APCEC Regulation No. 2, Section 8.809 of APCEC Regulation No. 8, and the Continuing Planning Process. On April 23, 2010, the APCEC entered Minute Order No. 10-12 which granted CWL's Petition and initiated rulemaking on the changes proposed to Regulation No. 2 by CWL.
3. CWL is a consolidated municipal improvement district, organized in 1906 and which, for more than 30 years, has operated its West Wastewater Treatment Plant (West Plant)

which discharges an the average wastewater effluent flow of 1.74 million gallons per day through Outfall 001 into an Unnamed Tributary to Big Creek under the authority of NPDES Permit No. AR0037907 issued by the Arkansas Department of Environmental Quality ("ADEQ") effective February 1, 2005. The discharge enters the Unnamed Tributary to Big Creek ("UT"), flows approximately .6 of a mile to Big Creek ("BC"), then flows approximately 16 miles to Bayou DeView ("BDV"). Monitoring data show that CWL is in compliance with its current permit.

4. CWL's application for the renewal of its NPDES Permit is currently pending before ADEQ. Because a segment of BDV below the mouth of BC and Lost Creek is listed on the 2008 303(d) list as impaired, it is anticipated that CWL's renewal permit will, for the first time, contain effluent limitations for minerals based upon the applicable Arkansas water quality standards for UT, BC and BDV which are set forth in APCEC Regulation No. 2.

5. Through its Petition, and based upon the Use Attainability Analysis supporting the Petition, CWL requested the following amendments to APCEC Regulation No. 2:

- a. modify the dissolved minerals water quality standards for the entire length of UT (Unnamed Tributary to Big Creek) as follows:

chloride from 48 mg/l to 71 mg/l  
sulfate from 37.3 mg/l to 60 mg/l  
TDS from 411.3 mg/l to 453 mg/l

- b. modify the dissolved minerals water quality standards for BC (Big Creek) from the mouth of UT to Whistle Ditch (stream segment 08020302-009) as follows:

chloride from 48 mg/l to 58 mg/l  
sulfate from 37.3 mg/l to 49 mg/l

- c. modify the dissolved minerals water quality standards for BDV (Bayou DeView) from Whistle Ditch to AR Highway 14 (the upper portion of stream segment 08020302-007) to match Delta Ecoregion standards as follows:

chloride from 20 mg/l to 48 mg/l  
sulfate from 30 mg/l to 38 mg/l  
TDS from 270 mg/l to 411.3 mg/l

- d. modify the dissolved minerals water quality standards for BDV from AR Highway 14 to its mouth (lower portion of stream segment 08020302-007 and stream segments 08020302-001 through 08020302-006) to match Delta Ecoregion standards as follows:

chloride from 20 mg/l to 48 mg/l  
sulfate from 30 mg/l to 37.3 mg/l  
TDS from 270 mg/l to 411.3 mg/l

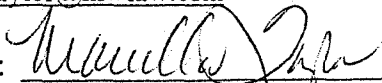
6. CWL's Petition is supported by the following:

- CWL is not seeking a change from historical water quality conditions in UT, BC or BDV; rather CWL seeks standards which allow CWL to continue to be compliant with its NPDES Permit while making certain that its effluent does not limit the attainment of the aquatic life designated uses in UT, BC and BDV.
- UAA data established that all sampling locations influenced by CWL's discharge showed the presence of ecoregion key and indicator species and species composition consistent with the attainment of a Channel-altered Delta Ecoregion fishery designated use. The requested changes will have no adverse effect on the aquatic life communities;
- Toxicity testing on *Ceriodaphnia dubia* and *Pimphales promelas* using CWL effluent showed no significant lethal or sub-lethal toxicity in either test organism;
- There is no current economically feasible treatment technology for the removal of the minerals. Reverse osmosis treatment technology does exist; however, this technology is not cost effective and generates a concentrated brine which is environmentally difficult to dispose of. The technology is not required to meet the designated uses and would produce no significant environmental protection.
- The basis for site-specific standards is provided in 40 CFR 131.10(g). Two factors support CWL's request for the modifications requested in paragraph 8, above:
  - 40 CFR 131.10(g)(5) Physical conditions related to the natural features of the water body, such as the lack of proper substrate, cover, flow, depth, pools, riffles and the like, unrelated to water quality, preclude attainment of aquatic life protection uses;

- 40 CFR 131.10(g)(6) Controls more stringent than those required by section 301(b) and 306 of the Act would result in substantial and widespread economic and social impact.
- 40 CFR 131.11(b)(1)(ii) provides states with the opportunity to adopt water quality standards that are “modified to reflect site-specific conditions.”

Respectfully submitted,

MITCHELL, WILLIAMS, SELIG,  
GATES & WOODYARD, PLLC  
425 W. Capitol Avenue, Suite 1800  
Little Rock, Arkansas 72201-3525  
(501) 688-8800  
[mtaylor@mwlaw.com](mailto:mtaylor@mwlaw.com)

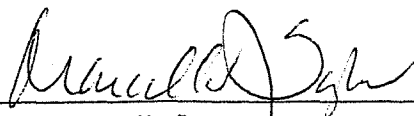
By:   
Marcella J. Taylor, AR Bar No. 82156

Counsel for City Water and Light Plant of the City  
of Jonesboro

### CERTIFICATE OF SERVICE

I hereby certify that on this 18<sup>th</sup> day of August, 2010, I served a copy of the foregoing Statement of Basis and Purpose on the following by United States Postal Service, postage prepaid and by electronic service:

Ms. Dawn Guthrie  
Chief Counsel  
Arkansas Department of Environmental Quality  
5301 Northshore Drive  
North Little Rock, AR 72118  
[guthrie@adeq.state.ar.us](mailto:guthrie@adeq.state.ar.us)

  
Marcella J. Taylor

# **EXHIBIT B**

## **RESPONSIVENESS SUMMARY**



BEFORE THE ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION

PLC

2010 JUL -6 PM 3:52

IN RE: REQUEST BY CITY WATER AND LIGHT )  
PLANT OF THE CITY OF JONESBORO )  
TO INITIATE RULEMAKING TO ) DOCKET NO. 10-004-R  
AMEND REGULATION NO. 2 )

**CITY WATER AND LIGHT PLANT OF  
THE CITY OF JONESBORO'S RESPONSIVENESS SUMMARY**

City Water and Light Plant of the City of Jonesboro (CWL), for its Responsiveness Summary,  
states:

On April 22, 2010, CWL filed its Petition to Initiate Rulemaking to Amended Arkansas  
Pollution Control and Ecology Commission (APCEC or the Commission) Regulation No. 2. On  
April 23, the Commission entered a Minute Order initiating the rulemaking and establishing a  
procedural schedule for the notice of the rulemaking and the public comment period.

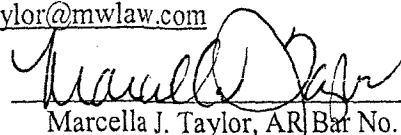
Notice of the rulemaking was published in the *Arkansas Democrat Gazette* on April 28 and  
April 29, 2010. On June 17, 2010, the Commission conducted a public meeting for the purpose of  
receiving comments from the public on the proposed rulemaking. The public comment period ended  
at 4:30 p.m. on July 1, 2010.

No written or oral public comments were submitted regarding the proposed amendment to  
Regulation No. 2.

Respectfully submitted,

MITCHELL, WILLIAMS, SELIG,  
GATES & WOODYARD, PLLC  
425 W. Capitol Avenue, Suite 1800  
Little Rock, Arkansas 72201-3525  
(501) 688-8800  
[mtaylor@mwlaw.com](mailto:mtaylor@mwlaw.com)

By:



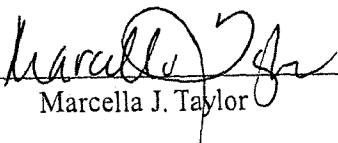
Marcella J. Taylor, AR Bar No. 82156

Counsel for City Water and Light Plant of the City of  
Jonesboro

CERTIFICATE OF SERVICE

I hereby certify that on this 6<sup>th</sup> day of July, 2010, I served a copy of the foregoing Responsiveness Summary on the following by electronic service:

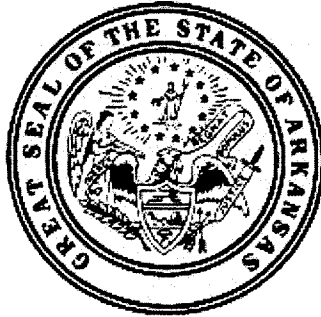
Ms. Dawn Guthrie  
Chief Counsel  
Arkansas Department of Environmental Quality  
5301 Northshore Drive  
North Little Rock, AR 72118  
[guthrie@adeq.state.ar.us](mailto:guthrie@adeq.state.ar.us)

  
\_\_\_\_\_  
Marcella J. Taylor

# **EXHIBIT C**

## **APCEC REGULATION NO. 2**

# ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION



## REGULATION NO. 2

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

INITIAL DRAFT

Adopted by the Arkansas Pollution Control and Ecology Commission on September 24, 2010

banks and/or bottoms of the watercourses or adversely affect any of the associated biota. As a guideline, oil and grease shall not exceed 10 mg/l average or 15 mg/l maximum when discharging to surface waters. No mixing zones are allowed for discharges of oil and grease.

**Reg. 2.511 Mineral Quality**

(A) Site Specific Mineral Quality Criteria

Mineral quality shall not be altered by municipal, industrial, other waste discharges or instream activities so as to interfere with designated uses. The following limits apply to the streams indicated, and represent the monthly average concentrations of chloride (Cl<sup>-</sup>), sulfate (SO<sub>4</sub><sup>=</sup>) and total dissolved solids (TDS).

<u>Stream</u>	<u>Concentration-mg/L</u>		
	<u>Cl<sup>-</sup></u>	<u>SO<sub>4</sub><sup>=</sup></u>	<u>TDS</u>
Arkansas River Basin			
Arkansas River (Mouth to L&D #7)	250	100	500
Bayou Meto (Rocky Branch to Bayou Two Prairie)	64*	ER	ER
Bayou Meto (mouth to Bayou Two Prairie)	95**	45**	ER
Bayou Two Prairie (mouth to Rickey Branch)	95**	45**	ER
Rocky Branch Creek	64*	ER	ER
Arkansas River (L&D #7 to L&D #10)	250	100	500
Cadron Creek	20	20	100
Arkansas River (L&D #10 to Oklahoma line, including Dardanelle Reservoir)	250	120	500
James Fork	20	100	275
Illinois River	20	20	300
Poteau River from Business Hwy 71 to Stateline	120	60	500
Unnamed trib at Waldron	150	70	660
White River Basin			
White River (Mouth to Dam #3)	20	60	430
Big Creek	20	30	270
Unnamed trib from Frit Ind.	ER	48*	ER
Cache River	20	30	270
Lost Creek Ditch	20	30	270
Bayou DeView from Whistle Ditch to AR Hwy 14	48	38	411.3
Bayou DeView from AR Hwy 14 to its mouth	48	37.3	411.3
Big Creek from unnamed trib to Whistle Ditch	58	49	ER
Unnamed trib. to Big Creek	71	60	453
Little Red River (including Greers Ferry Reservoir)	20	30	100
Black River	20	30	270
Strawberry River	20	30	270
Spring River	20	30	290

Eleven Point River	20	30	270
Stennitt Creek	ER	ER	456*
South Fork Spring River	20	30	270
Myatt Creek	20	30	270
Current River	20	30	270
White River (Dam #3 to Missouri line, including Bull Shoals Reservoir)	20	20	180
Buffalo River	20	20	200
Crooked Creek	20	20	200
White River (Missouri line to headwaters, including Beaver Reservoir)	20	20	160
Kings River	20	20	150
West Fork White River	20	20	150
St. Francis River Basin			
St. Francis River (Mouth to 36° N. Lat.)	10	30	330
L'Anguille River	20	30	235
Tyronza River (headwaters to Ditch No. 6 confluence)	20	30	350
Ditch No. 27	ER	480	1200
Ditch No. 6 (mouth to Ditch No. 27 confluence)	ER	210	630
Tyronza River (mouth to Ditch No. 6 confluence)	20	60	350
Little River	20	30	365
Pemiscot Bayou	20	30	380
St. Francis River (36° N. Lat. to 36° 30' N. Lat.)	10	20	180
Ouachita River Basin			
Bayou Bartholomew	50	20	500
Chemin-A-Haut Creek	50	20	500
Overflow Creek	20	30	170
Bayou Macon	30	40	330
Boeuf River	90	30	460
Big Cornie Creek	230	30	500
Little Cornie Creek	200	10	400
Three Creeks	250	10	500
Little Cornie Bayou	200	20	500
Unnamed trib from GLCC 003	538*	35*	519*
Unnamed trib to Little Cornie Bayou	305*	ER	325*
Little Cornie Bayou from unnamed trib to State Line	215*	25*	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
Hurricane Cr from Ben Ball Bridge to Hwy.270	125	700	1200
Hurricane CR from 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 Smackover creek	360*	55*	855*
Flat Creek from mouth of UTA to Haynes Creek	165*	67*	560*
Unnamed trib A to Flat Creek from mouth of EDCC 001 ditch to confluence with Flat Creek	16*	80*	315*
Confluence with unnamed trib A to Flat Creek	23*	125*	475*
Bayou de L'Outre Creek above Loutre Creek	180	ER	970
Unnamed trib UT004 from GLCC	014*	ER	311*
Unnamed trib UT002 from GLCC	278*	90*	500*
Loutre Creek- from Hwy 15 South to the confluence of Bayou de Loutre	256*	997*	1756*
Bayou de Loutre – from Loutre Creek to the discharge for the City of El Dorado - South facility	264*	635*	1236*
Bayou de Loutre – from the discharge for the City of El Dorado-South downstream to the mouth of Gum Creek	250*	431*	966*
Bayou de Loutre – from the mouth of Gum Creek downstream to the mouth of Boggy Creek	250*	345*	780*
Boggy Creek - from the discharge for Clean Harbors El Dorado LLC to the confluence of Bayou de Loutre	631*	63*	1360*
Bayou de Loutre- from the mouth of Boggy Creek downstream to the mouth of Hibank Creek	250*	296*	750*
Bayou de Loutre – from the mouth of Hibank Creek downstream to the mouth of Mill Creek	250*	263*	750*
Bayou de Loutre – from the mouth of Mill Creek downstream to the mouth of Buckaloo Branch	250*	237*	750*
Bayou de Loutre- from the mouth of Buckaloo Branch downstream to the mouth of Bear Creek	250*	216*	750*
Bayou de Loutre – from the mouth of Bear Creek downstream to the final segment of Bayou de Loutre	250*	198*	750*
Bayou de Loutre (Final segment) – from the mouth of Bear Creek to the Arkansas/Louisiana State Line	250*	171*	750*
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
Back Valley Creek	ER	250	500
Ouachita River (Carpenter Dam to Headwaters, including Lake Ouachita tributaries)	10	10	100
<b>Red River Basin</b>			
Bayou Dorcheat	100	16*	250
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

\*\* - These limits shall apply to all tributaries of Bayou Meto and Bayou Two Prairie listed in Appendix A  
Any modification of these values must be made in accordance with Reg. 2.306.

(B) Ecoregion Reference Stream Minerals Values



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 SO<sub>4</sub><sup>-</sup> 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 SO<sub>4</sub>. Such modifications may be made only in accordance with Reg. 2.306.

**CALCULATED ECOREGION REFERENCE STREAM VALUES (mg/l)**

Ecoregion	Chlorides	Sulfates	TDS
Ozark Highlands	17.3	22.7	250
Boston Mountains	17.3	15	95.3
Arkansas River Valley	15	17.3	112.3
Ouachita Mountains	15	20	142
Gulf Coastal Plains	18.7	41.3	138
Delta	48	37.3	411.3

(C) Domestic Water Supply Criteria

In no case shall discharges cause concentrations in any waterbody to exceed 250, 250 and 500 mg/l of chlorides, sulfates and total dissolved solids, respectively, or cause concentrations to exceed the applicable limits in the streams to which they are a tributary, except in accordance with Reg. 2.306.

**Reg. 2.512 Ammonia**

Total ammonia nitrogen (N) shall not exceed those values and frequency of occurrence established in the following tables:

- (A) The one-hour average concentration of total ammonia nitrogen shall not exceed, more than once every three years on the average, the acute criterion as shown in the following table:

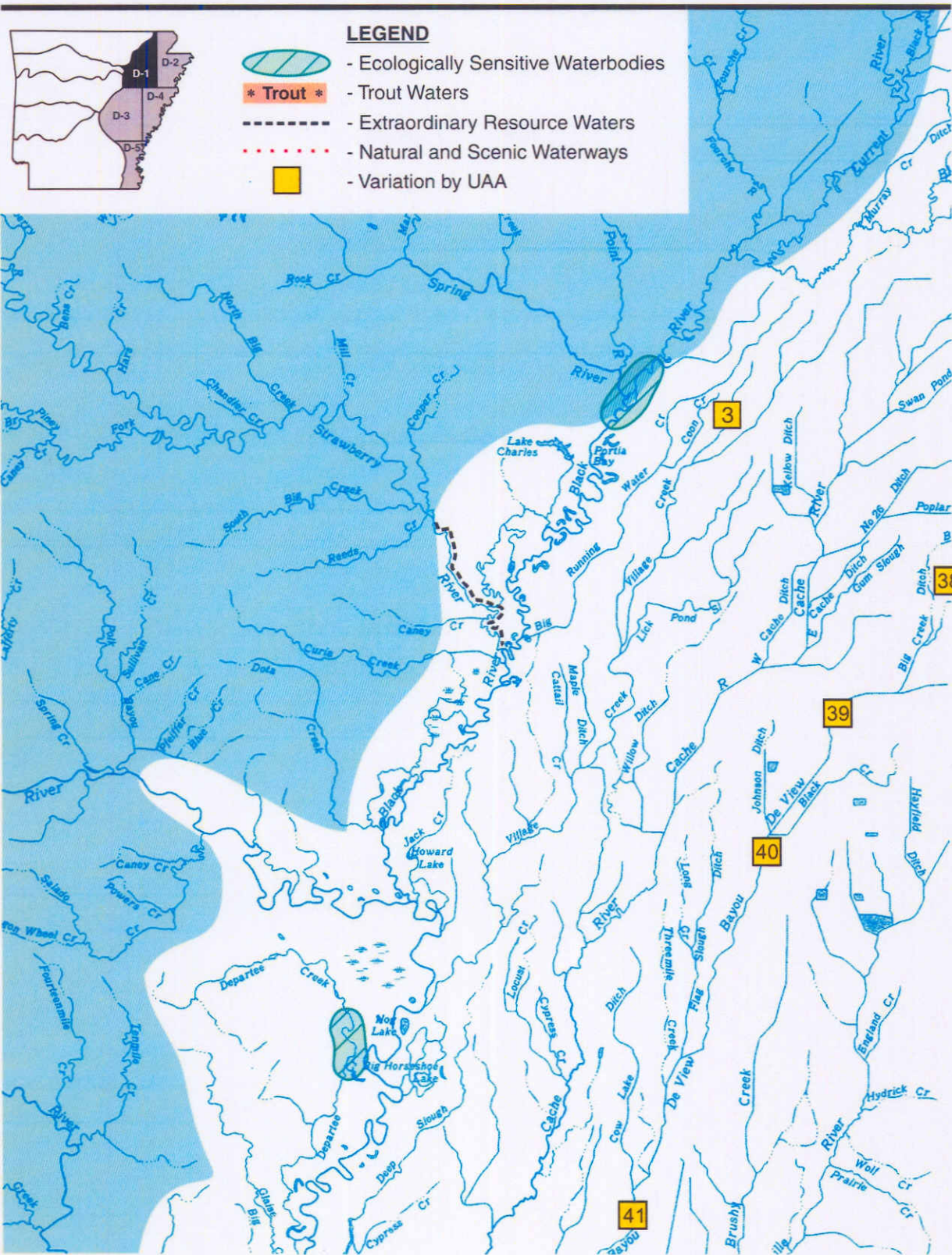
Blue Point Ditch- – chlorides 95 mg/l; sulfates 45 mg/l  
Big Ditch – chlorides 95 mg/l; sulfates 45 mg/l  
Main Ditch – chlorides 95 mg/l; sulfates 45 mg/l  
Plum Bayou– chlorides 95 mg/l; sulfates 45 mg/l  
Crooked Creek Ditch – chlorides 95 mg/l; sulfates 45 mg/l  
Indian Bayou Ditch – chlorides 95 mg/l; sulfates 45 mg/l  
Caney Creek Ditch – chlorides 95 mg/l; sulfates 45 mg/l  
Salt Bayou Ditch – chlorides 95 mg/l; sulfates 45 mg/l  
Bradley Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Tupelo Bayou – chlorides 95 mg/l; sulfates 45 mg/l  
Dennis Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Buffalo Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Flynn Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Boggy Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Bear Bayou – chlorides 95 mg/l; sulfates 45 mg/l  
Bubbling Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Five Forks Bayou – chlorides 95 mg/l; sulfates 45 mg/l  
Government Cypress Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Brushy Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Tipton Ditch – chlorides 95 mg/l; sulfates 45 mg/l  
Hurricane Slough – chlorides 95 mg/l; sulfates 45 mg/l  
Newton Bayou – chlorides 95 mg/l; sulfates 45 mg/l  
West Bayou – chlorides 95 mg/l; sulfates 45 mg/l  
Brownsville Branch– chlorides 95 mg/l; sulfates 45 mg/l  
Eagle Branch– chlorides 95 mg/l; sulfates 45 mg/l  
Unnamed tributary to Big Creek – chlorides 71 mg/l, sulfates 60 mg/l, TDS 453 mg/l (D-1, #38)  
Big Creek from mouth of unnamed trib to Whistle Ditch – chloride 58 mg/l, sulfates 49 mg/l (D-1, #39)  
Bayou DeView from Whistle Ditch to AR Hwy 14 – chloride 48 mg/l, sulfates 38 mg/l, TDS 411.3 mg/l (D-1, #40)  
Bayou DeView from AR Hwy 14 to its mouth – chloride 48 mg/l, sulfates 37.3 mg/l, TDS 411.3 (D-1, #41)

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\* Increase over natural temperatures may not be more than 2.8°C (5°F).

\*\* When water temperatures exceed 22°C, the critical season D.O. standard may be depressed by 1 mg/l for no more than 8 hours during a 24-hour period.

# Plate D-1 (Delta)



# **EXHIBIT D**

## **REGULATIONS TRACKING SHEET**

## ADEQ REGULATIONS TRACKING SHEET

Regulation No. 2 Common Name: Water Quality Standards

1. Strawman review of draft regulations by key groups.

initiated

completed

AEDQ Legal/Admin

reviewed with ADEQ Water Division

Industrial/Environmental  
Groups

reviewed with Arkansas Department of Health & Human  
Services, Arkansas Natural Resources Commission,  
Arkansas Game & Fish, United States Fish and Wildlife

2. Proposed regulations presentation to Commission's Regulations Committee for approval to public comment period.

Date: 4/9//2010

By: Marcella J. Taylor

Comments/Approval

approved to initiate rulemaking by Minute Order

3. Legal notice of proposed regulations and public hearing.

Publication

*Arkansas Democrat Gazette*

Dates of publication

4/28/2010 and 4/29/2010

4. Provide Legislative Council with three copies of proposed regulations and the legislative questionnaire at least ten days prior to the first public hearing.

Proposed regulation and legislative questionnaire provided by Doug Szenher, ADEQ.

5. Hold public hearing(s) on the proposed regulations.

Location

Jonesboro, Arkansas

Date

6/17/2010

6. Date of final day of public comment period: April 29, 2010

7. Final proposed regulation and response to comments prepared by City Water and Light Plant of the City of Jonesboro

Responsiveness Summary filed with the APCEC on July 6, 2010, and the final proposed regulation and proposed Minute Order delivered to Judge Moulton and ADEQ on August 27, 2010

8. Formal presentation to the Public Health & Welfare Committee of the Legislative Council.

*Date:* August 25, 2010

*By:* Ryan Benefield, ADEQ Deputy Director

*Comments/Approval*

approved by legislative committee

9. Formal presentation of proposed final regulation to the Administrative Rules & Regulations Subcommittee of the Legislative Council (All regs).

*Date:* August 11, 2010

*By:* Ryan Benefield, ADEQ Deputy Director

*Comments/Approval*

approved by legislative committee

10. Presentation of proposed final regulations to Commission's Regulations Committee.

*Date:* September 24, 2010

*By:* Marcella J. Taylor

*Comments/Approval*

\_\_\_\_\_

11. Provide Commission members with copy of proposed final regulation prior to Commission meeting.

*Date:* September \_\_, 2010

12. Present proposed final regulation to the Commission for adoption.

*Date:* September 24, 2010

*By:* Marcella J. Taylor

*Comments/Approval*

\_\_\_\_\_

13. Send two copies of adopted regulation to Secretary of State (regulation becomes effective twenty days after filing).

*Date:* \_\_\_\_\_

14. Formally submit adopted regulation to EPA (if necessary) with Governor's submittal letter.

*Date Mailed:* \_\_\_\_\_

**EXHIBIT E**

**PROPOSED MINTUTE ORDER**

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**Regulation No. 2, City Water and  
Light Plant of the City of Jonesboro  
Third-Party Rulemaking**

**DOCKET NO. 10-004-R**

**MINUTE ORDER NO. 10-\_\_\_\_\_**

**PAGE 1 OF 2**

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City Water and Light Plant of the City of Jonesboro ("CWL") filed a petition for third-party rulemaking to amend Regulation No. 2 "Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas."

Arkansas Pollution Control and Ecology Commission Minute Order No. 10-12 authorized the initiation of rulemaking. One public hearing and a 45-day public comment period were held. No public comments were received. 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. That Regulation No. 2 be amended to change the water quality standards in the following waters as described below:

- a. modify the dissolved minerals water quality standards for the entire length of UT (Unnamed Tributary to Big Creek) as follows:

chloride from 48 mg/l to 71 mg/l  
sulfate from 37.3 mg/l to 60 mg/l  
TDS from 411.3 mg/l to 453 mg/l

- b. modify the dissolved minerals water quality standards for BC (Big Creek) from the mouth of UT to Whistle Ditch (stream segment 08020302-009) as follows:

chloride from 48 mg/l to 58 mg/l  
sulfate from 37.3 mg/l to 49 mg/l

- c. modify the dissolved minerals water quality standards for BDV (Bayou DeView) from Whistle Ditch to AR Highway 14 (the upper portion of stream segment 08020302-007) to match Delta Ecoregion standards as follows:

chloride from 20 mg/l to 48 mg/l  
sulfate from 30 mg/l to 38 mg/l  
TDS from 270 mg/l to 411.3 mg/l



**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**Regulation No. 2, City Water and  
Light Plant of the City of Jonesboro  
Third-Party Rulemaking**

**DOCKET NO. 10-004-R**

**MINUTE ORDER NO. 10-\_\_\_\_\_**

**PAGE 2 OF 2**

- d. modify the dissolved minerals water quality standards for BDV from AR Highway 14 to its mouth (lower portion of stream segment 08020302-007 and stream segments 08020302-001 through 08020302-006) to match Delta Ecoregion standards as follows:

chloride from 20 mg/l to 48 mg/l  
sulfate from 30 mg/l to 37.3 mg/l  
TDS from 270 mg/l to 411.3 mg/l

2. That the Statement of Basis and Purpose and the Responsiveness Summary submitted by CWL and the 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.

**PROMULGATED THIS 24<sup>th</sup> DAY OF SEPTEMBER, 2010, BY ORDER OF THE  
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION.**

**COMMISSIONERS:**

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**J. Simpson  
L. Bengel  
S. Henderson  
D. Samples  
J. Bates  
J. Shannon**

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**J. Chamberlin  
L. Sickel  
W. Thompson  
J.D. Lowrey  
B. White  
R. Young**

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**Chair, D. Hendrix**

**ATTEST:** \_\_\_\_\_  
Teresa Marks, Director

**APPROVED:** \_\_\_\_\_  
Governor

SUBMITTED BY: Marcella Taylor

DATE PASSED: \_\_\_\_/\_\_\_\_/10

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**Regulation No. 2, City Water and  
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**ARKANSAS POLLUTION CONTROL  
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**PAGE 2 OF 2**

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TDS from 270 mg/l to 411.3 mg/l

2. That the Statement of Basis and Purpose and the Responsiveness Summary submitted by CWL and the Statement of Basis and Purpose and the 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.

**PROMULGATED THIS 24<sup>th</sup> DAY OF SEPTEMBER, 2010, BY ORDER OF THE  
ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION.**

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**Chair, D. Hendrix**

**ATTEST:** \_\_\_\_\_  
Teresa Marks, Director

**APPROVED:** \_\_\_\_\_  
Governor

SUBMITTED BY: Marcella Taylor

DATE PASSED: \_\_\_\_/\_\_\_\_/10