

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

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| IN THE MATTER OF AMENDMENTS TO |) | |
| REGULATION NO. 2, REGULATION |) | |
| ESTABLISHING WATER QUALITY |) | DOCKET NO. 14-008-R |
| STANDARDS FOR SURFACE WATERS |) | |
| OF THE STATE OF ARKANSAS |) | |

ARKANSAS DEPARTMENT OF ENVIRONMENTAL QUALITY'S
RESPONSIVE SUMMARY

Pursuant to Minute Order 14-41, the Arkansas Department of Environmental Quality ("ADEQ" or "Department") submits the following Responsive Summary regarding proposed changes to Regulation No. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas.

On December 5, 2014, the Arkansas Pollution Control and Ecology Commission ("APC&EC" or "Commission") granted Domtar A.W. LLC's ("Domtar") Petition to Initiate Rulemaking to amend Regulation No. 2. The third-party petition was filed pursuant to APC&EC Reg.8.809. Domtar requests to modify Arkansas Water Quality Standards in the Red river from the Arkansas/Oklahoma state line to mouth of the Little River as follows: TDS from 850 mg/L to 940 mg/L, Sulfate from 200 mg/L to 250 mg/L; and, in the Red River from the mouth of the Little River to the Arkansas/Louisiana state line as follows: Sulfate from 200 mg/L to 225 mg/L.

One public hearing was held in Ashdown on Monday, January 26, 2015. The final day to submit written comments was March 2, 2015. The Commission received one written comment during the public comment period, including a total of one signatory. Three oral comments were received during the public hearing. Oral comments from the public hearing are presented here in part; however, a digital recording of the public hearing in its entirety is available upon request.

Oral Comments (transcribed in part) received at public hearing held on January 26, 2015.

Comment 1.a. (in part): Dan York, Chairman of Arkansas Red River Commission

[I am] Concerned to see [an] increase of TDS, increase for any reach of the Red River, anywhere really, but specifically here in Arkansas. And also I read that there was a relaxation or striking of the drinking water designation for the Red River.

Comment 1.b. (in part): Wayne Dowd, member Red River Commission

Unfortunately the Red River Commission notice of these applications, I guess, or rule change was through the newspaper we've hardly had a chance to get our act together to understand fully what is requested. Therefore, speaking for myself, with limited knowledge as I understand the problem and the proposed solution I would be opposed to the rule change if it's gonna add more contaminants to the river.

I don't know what they're discharging the paper says additional minerals. I don't know what those minerals are. I think the public, uh the uh, commission probably should order a public hearing. I would request one be granted ... the many questions I have that I can't get answered, uh, even though the proponents have very graciously tonight agreed to meet privately to answer those questions they won't be on record. Nor will our response to those answers to our questions be on record. And I think this is a matter of great public interest.

I think the matter need be looked at very closely because if you increase the contaminants in the river it makes it less likely we're gonna sell that water, much less a lot of it. Uh, in addition, I think the public needs to know what those contaminants are and all I know is that all the paper says are "minerals." Uh, Red River has been under for quite some time, anyway, unless it's been relaxed, a mercury warning about eating more than two fish twice a month out of

that river because mercury contained in the river and in the fish and if any of these minerals are mercury, that's certainly a contaminant in the river which is going to effect the public because there are a number of commercial fishermen that fish the river that have retail outlets here that sell fish out of the river. So I think that it'd be interesting for the public to know and I'm not gonna read a 3 or 4 inch thick boilerplate application to change the rule to just find out are there are gonna be additional uh, minerals in there that maybe are gonna hurt the public.

And I would therefore request that the Commission consider holding a public hearing and where we could get some answers on the record and possibly in the media so that the public can be aware of what's going on.

Response 1.a and 1.b:

Domtar seeks to modify Arkansas Water Quality Standards for Total Dissolved Solids (TDS) and Sulfates in the Red river from the Arkansas/Oklahoma state line to mouth of the Little River as follows: TDS from 850 mg/L to 940 mg/L; Sulfate from 200 mg/L to 250 mg/L. Currently, no Domestic Water Supply designated use exists on this portion of the Red River, hence there is no proposal to remove "drinking water" uses for this segment of the Red River.

Additionally, Domtar seeks to modify Arkansas Water Quality Standards for the Red River from the mouth of the Little River to the Arkansas/Louisiana state line as follows: Sulfate from 200 mg/L to 225 mg/L. This modification does not exceed the Domestic Water designated use criteria of 250 mg/L for Sulfates, and therefore does not require any modifications to or removal of "drinking water" uses.

This petition seeks to increase the Arkansas Water Quality Standards for TDS and Sulfates to the naturally existing instream concentrations already found in the Red River. ADEQ data at station RED0025, located above the Domtar discharge, shows the 95th percentile of 957

mg/L for TDS and 242 mg/L for Sulfates. These proposed changes to the standards will not, in and of themselves, “increase TDS” or “add more contaminants to the river” within the Red River. This is simply a modification to the standards to reflect what is already naturally occurring in the Red River. This petition does not seek to remove Domestic Water Supply designated use within the Red River.

The “minerals” referenced in this proposal are Sulfates and TDS. TDS is made up of ions, commonly called “salts,” such as sodium (Na^+), chloride (Cl^-), calcium (Ca^{2+}), and magnesium (Mg^{2+}) among others. The amounts and ratios of the different ions are largely dependent on the watershed’s soil/geology types and land uses. Therefore, TDS makeup is not the same from one river to next or from one part of the state, or ecoregion, to the next.

The request for a Public Hearing is acknowledged. Reg. 8.804 requires that at least one public hearing be held before a regulation is adopted, amended, or repealed. The hearing held on January 26, 2015 fulfilled this requirement. The Department noted that Domtar and their representatives stayed after the public hearing and answered questions.

Comment 2. (in part): Allan Gates of Mitchell Williams

...there is authority to extend, briefly, the comment period to allow additional time if that is requested tonight and so to afford as much opportunity as possible I ask that that extension be granted so that there will be that opportunity.

Response:

The public comment period was extended until March 2, 2015.

Written Comments received before the extended March 2, 2015 date.

Comment 3.1 – 3.4: Arkansas Red River Commission (via Dan York)

Our questions pertain to the proposed rule change to increase the allowed TDS in the Red River from the Oklahoma/Arkansas line to the Arkansas/Louisiana line.

Comment 3.1.

With the proposed rule changes to the water quality standards and the issuance of the Domtar permit, will there be any change to the water quality and total TDS levels currently existing in the Red River?

Response 3.1.

These proposed amendments to the standards will not, in and of themselves, “change the water quality and total TDS levels currently existing in the Red River.” As stated above, the proposed amendments will reflect the levels that already naturally exist within these reaches of the Red River (95th percentile of ADEQ data). Domtar’s permit limits will be issued using the Red River’s water quality standards at the time of issuance. As is always the case, it will be the responsibility of the permittee to operate within the limits of the permit in order to meet water quality standards.

Comment 3.2.

The proposed change to water quality standards will change the designation in the Little River to Louisiana line stretch from ‘domestic water supply’ to ‘non-domestic water supply’. Is there another designation that can be used, such as ‘supplemental water supply’? If not, what is the process to get such a designation approved and accepted by ADEQ?

Response 3.2.

No changes are proposed within this petition for the Little River. Additionally, there is no proposal to remove “Domestic Water Supply” designated use for the Red River within this petition.

There is no other designated use for “drinking water” other than Domestic Water Supply in the Arkansas Water Quality Standards, APC&EC Regulation No. 2; there are no sub-uses. The U. S. Environmental Protection Agency (EPA) has set secondary Maximum Contaminant Levels (sMCL) for fifteen contaminants for “drinking water” uses. Levels for “minerals,” Sulfate, Chloride, and TDS are 250 mg/L, 250 mg/L, and 500 mg/L, respectively (commonly referred to as 250/250/500).

Consequently, these values are used as Arkansas’ water quality standards for Domestic Water Supply designated use. If instream concentrations of these parameters are above the 250/250/500 sMCL the water body is not meeting this standard. In some cases, elevated mineral concentrations are natural due to geological influences and in some cases elevated mineral concentrations are anthropogenic.

Unlike designated uses like fishable/swimmable uses, drinking water uses do not typically have sub-uses applied to them. They either meet the federally established sMCL (250/250/500 for minerals) or they do not. Therefore they either meet Domestic Water Supply criteria or they do not.

Comment 3.3.

Does the removal of the ‘domestic water supply’ designation on the Red River prevent or interfere with any future project that might involve use, sale or transfer of water from Red River in Arkansas to out of state or in state users?

Response 3.3.

There is no proposal within this petition to remove the Domestic Water Supply designated use within the Red River. However, water can still be used for drinking water purposes, even if it does not meet “drinking water” criteria; it will just need to be further treated to remove to the excess minerals.

Comment 3.4.

Why is there such an inconsistent and conflicting set of mineral water quality standards for the Red River within Arkansas? (The stretch from the Oklahoma line to Little River and from Little River to the Louisiana line?)

Response 3.4.

When third parties or the State revise water quality standards, they may do so for any segment, or piece, of a waterbody. It is not a requirement to amend the water quality standards for an entire waterbody. This can result in differing water quality standards within a waterbody.