

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 2, REGULATION)
ESTABLISHING WATER QUALITY)
STANDARDS FOR SURFACE WATERS)
OF THE STATE OF ARKANSAS)

DOCKET NO. 06-010-R

MOTION FOR EXTENSION OF TIME TO FILE
RESPONSIVE SUMMARY

Petitioner, Arkansas Department of Environmental Quality (“Department”), hereby moves for a continuance of the times currently scheduled for the submission of a Statement of Basis and Purpose and a proposed Minute Order to the Arkansas Pollution Control and Ecology Commission (“Commission”) and for a continuance of the date currently scheduled for the Commission to consider the adoption of proposed amendments to Regulation No. 2.

1. On September 22, 2006, the Commission issued Minute Order 06-39 granting the Arkansas Department of Environment Quality’s (“Department”) Petition to Initiate Rulemaking to amend Regulation No. 2, Regulation Establishing Water Quality Standards for Surface Waters of the State of Arkansas.

2. Minute Order 06-39 requires the Department to file a Statement of Purpose, including a response to comments, and a proposed Minute Order on the adoption of the proposed changes to Regulation No.2 by May 1, 2007. (Minute Order 06-39, paragraphs 5 and 6.)

4. The Regulations Committee and the Commission are currently scheduled to consider whether to adopt the proposed changes at the regularly scheduled meeting in May 2007. (Minute Order 06-39, paragraphs 8 and 9.)

5. The proposed changes to Regulation No.2 address extraordinary resource waters (ERWs), ecologically sensitive waterbodies, and natural and scenic waterways. The subject of

the proposed changes has engendered a great deal of public interest and an extraordinary amount of public input.

6. Prior to submitting the Petition to Initiate Rulemaking, the Department convened a series of workgroup meetings. Nearly 50 volunteers representing various interests attended these workgroup meetings and provided input on the proposed changes to Regulation No. 2.

7. A total of ten (10) public hearings were held in Mountain Home, Fayetteville, Van Buren, El Dorado, Harrison, Hot Springs, Mt. Ida, Russellville, Arkadelphia, and Little Rock. A total of over 45 persons submitted oral comments at the public hearings. Written comments were received through February 5, 2007. A total of 585 persons submitted written comments by letter, email, or petition.

8. The public comments received during the public comment period have largely been critical of the Department's proposed changes to Regulation No. 2, and an overwhelming number of the comments received request changes to the proposed amendments to Regulation No. 2.

9. The public comments were received prior to Ms. Teresa Marks' appointment as Director of the Department. The Director of the Department proposes to re-convene the workgroup for the purpose of reviewing the amendments to Regulation No. 2 with the volunteers, each of whom submitted thoughtful and detailed comment letters regarding the proposed changes.

10. Given the controversy surrounding the petition and the overwhelming number of comments received requesting changes to the proposed amendments to Regulation No. 2, the Department requests additional time for a thorough review and consideration of the comments by

the Director and to reconvene the workgroup. This additional time will be used to determine if any changes to the proposed amendments are necessary based on the public comments.

11. The Department requests an extension of time to file a Statement of Basis, including a response to comments, and a Proposed Minute Order to June 1, 2007.

12. The Department is scheduled to 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 at the regularly scheduled meetings in July 2007.

13. The Department requests that an extension of time for the Regulations Committee and the Commission to consider whether to adopt the proposed changes at the regularly scheduled meetings in August 2007.

14. A proposed Minute Order setting forth the new schedule is attached to this Motion as Exhibit "A."

WHEREFORE, the Department requests that the Commission adopt the proposed Minute Order, and extend the remaining deadlines currently scheduled in Minute Order 06-39.

Respectfully submitted,

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