

EXHIBIT B:

RESPONSIVE SUMMARY

**BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
COMMISSION**

IN THE MATTER OF AMENDMENTS TO)	DOCKET NO. 09-006-R
REGULATION No. 30, REMEDIAL ACTION)	
TRUST FUND HAZARDOUS SUBSTANCES)	
SITE PRIORITY LIST)	

**RESPONSIVE SUMMARY FOR PROPOSED CHANGES TO AMEND
REGULATION No. 30, REMEDIAL ACTION TRUST FUND HAZARDOUS
SUBSTANCES SITE PRIORITY LIST**

April 6, 2010

The Arkansas Pollution Control and Ecology Commission initiated a proposal to revise APC&EC Regulation No. 30, Remedial Action Trust Fund Hazardous Substances Site Priority List, at its regular meeting on October 23, 2009, under docket number 09-006-R.

A public hearing was held at the Arkansas Department of Environmental Quality's (ADEQ) headquarters in North Little Rock on November 30, 2009 to receive comments on the proposed revisions. One written comment was received from the Mitchell-Williams Law Firm on behalf of the Butler Family Limited Partnership ("BFLP"), (Attachment 1).

Commenter opposed the addition of the Walgreens Store No. 03425 site to the State Priority List as proposed in this rulemaking. The Commenter proposed on behalf of the BFLP, the potentially responsible party ("PRP") for the Walgreens site, to engage an environmental consultant to perform limited testing of the groundwater monitoring wells at the site and conduct a vapor intrusion investigation and site risk assessment, intending to demonstrate that a vapor intrusion hazard does not occur at the site. The proposal contains an option for the BFLP to withdraw this offer should ADEQ disagree with the consultant's initial scope of work.

ADEQ Response: As detailed in the site summary included with the Department's Petition for Rulemaking, the Walgreens 03425 site was enrolled by the BFLP in ADEQ's Elective Site Clean-up program in June 2007 to address problems found during an earlier environmental site assessment. Once a release of trichloroethylene (TCE) and perchloroethylene (PCE) at levels exceeding the Maximum Contaminant Levels (MCLs) established by the U.S. EPA for ground water was confirmed, the BFLP withdrew from participation in the elective site cleanup agreement for the property. As the responsible agency for the investigation and remediation of hazardous substance releases in Arkansas, ADEQ is obliged to respond and investigate the nature and extent of such a release and the level of risk posed to human health and the integrity of the State's environment, and to require that actions be taken to remove or mitigate unacceptable risks. ADEQ finds that the proposal offered on behalf of the BFLP does not include

sufficient commitment by the PRP to address the contamination and possible risks to be found at the property. Should the Department accept the proposal and disagree with BFLP's contractor's scope of work, the BFLP would retain an option to withdraw once again from an agreement to address the release of hazardous substances to groundwater at the site and its potential migration off-site without re-initiating the rulemaking process to list the site for investigation and remediation under the RATFA, adding significant delay to the process.

In subsequent discussions with the BFLP's consultant, BFLP has withdrawn from the offer submitted in their letter of November 19, 2009, and has withdrawn their objection to the Walgreens site being added to the State Priority List.

No change has been made to the proposed revisions based on this comment, and ADEQ has included the Walgreens Store 03425 site in its proposed additions to the State Priority List. ADEQ welcomes the cooperation and participation of the BFLP in further investigation of the nature and extent of the release at the site, and in the design and implementation of any remedial actions which may be required as a result of the site investigation.