



December 4, 2017

Via email: reg-comment@adeq.state.ar.us
and robinson@adeq.state.ar.us

Kelly Robinson
Office of Law and Policy
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

Re: City of Huntsville's Proposed Changes to APCEC Regulation No. 2 re Minerals

Dear Ms. Robinson:

The following comments are submitted on behalf of Beaver Water District (BWD), the largest of the four public drinking water utilities whose source of raw water is Beaver Lake and the second largest drinking water utility in Arkansas. BWD produces the drinking water for over 330,000 people, businesses, and industries in Northwest Arkansas. The City of Huntsville's third-party rulemaking proposes changes to the Arkansas water quality standards and criteria for minerals in Arkansas Pollution Control and Ecology Commission (APCEC) Regulation No. 2 (hereinafter, "Reg. 2"). The City of Huntsville (hereinafter, "Huntsville") seeks to remove the designated drinking water supply use from certain segments of Town Branch and Holman Creek, to increase the water quality criteria (WQC) for the minerals chloride, sulfate, and total dissolved solids (TDS) at Reg. 2.511 that apply to certain segments of Town Branch and Holman Creek, and to increase the WQC for chloride and TDS at Reg. 2.511 that apply to War Eagle Creek from its confluence with Holman Creek downstream to Clifty Creek.

War Eagle Creek is a major tributary of Beaver Lake. Its watershed constitutes approximately one-third of the Beaver Lake watershed upstream of BWD. Any pollution in the War Eagle Creek watershed has the potential to adversely impact the Lake's water quality and can have a direct bearing on what it costs us to provide our customers with drinking water that meets or exceeds all federal and state regulatory requirements. The current and future economic condition of Northwest Arkansas is dependent upon the protection of the water quality of Beaver Lake.

BWD acknowledges with appreciation that Huntsville has limited its proposed changes to the minerals WQC for War Eagle Creek as compared to what it proposed when it initiated its third-party rulemaking in 2013. It has reduced the length of the segment of War Eagle Creek to which the proposed changes would apply and it has eliminated its proposal to increase the sulfate WQC for that segment of War Eagle Creek. It still, however, proposes increases (although not nearly as large) to the WQC for chloride and TDS for War Eagle Creek. Incongruently, the proposed changes to the upstream WQC for chloride, sulfate, and TDS for Town Branch and Holman Creek are substantially higher than what Huntsville proposed in 2013.

Although somewhat difficult to parse out of the numerous documents that have been filed in this rulemaking docket,¹ the explanation for the changes from the WQC proposed in 2013 and those that are currently proposed is approximately three, double-spaced pages long and found at Section 7.1 of the June 2017 Section 2.306 Site Specific Water Quality Study: Town Branch, Holman Creek, and War Eagle Creek (hereinafter, the "Revised Study") prepared for Huntsville by GBMc & Associates. There is no discussion of why the WQC currently proposed by Huntsville have changed so dramatically from what was proposed in 2013. Section 7.1 provides mostly "summary statistics" and notes that the data used for the "percentile calculations" are provided in Appendix I. The data in Appendix I, however, is very limited. It appears, for example, that only twelve measured data points were used in the percentile calculations for chloride and TDS for Town Branch and War Eagle Creek and that only four measured data points were used in the percentile calculations for sulfate for those two streams. The data for those two streams also was limited to the time period of July 2011 through June of 2012.

BWD objects to the use of such limited data sets for making changes to the WQC in Reg. 2 and also objects to the use of data that does not include current water quality analyses. The data used was primarily from samples collected by GBMc. Was all of the available water quality monitoring data collected by the Arkansas Department of Environmental Quality utilized? Why wasn't data collected by other entities, such as the United States Geological Survey, used? As reflected in the November 30, 2017, public comment letter filed in this proposed rulemaking by the Arkansas Department of Health, which BWD supports, changes to the WQC for minerals that apply to watersheds with a designated domestic water supply use² should not be undertaken lightly. At a minimum, the water quality data used should be reasonably current and the sample size should be large enough, when viewed conservatively, to justify the changes. We do not believe that is the case in this proposed rulemaking.

BWD understands the need to allow Huntsville's existing wastewater discharge in a manner consistent with the regulations and based on sound science. We question, however, whether that standard has been met in this proposed rulemaking. Thank you for your consideration of these comments.

Sincerely,



Colene Gaston
Staff Attorney

1. BWD notes that some of the documents posted to this rulemaking docket over time appear to have been replaced or otherwise changed without indication to that effect being noted. This is a problem for the public in conducting the review to which it is entitled under the regulations. Often the documents posted have not been file-marked by the APCEC. Only file-marked documents should be posted. Once filed, documents should not be removed from the docket.
2. BWD notes that a use can also be an existing use if ambient water quality conditions were present in the waterbody as of November 28, 1975, that would have supported the use.

BWD Public Comment Letter

Re: Huntsville's Proposed Changes to Reg. 2 re Minerals

December 4, 2017

Page 3

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