

LEDING & HOGAN, CPAs P.A.

Rickey D. Leding



Kim A. Hogan

PO Box 551

Member of Arkansas Society of Certified Public Accountants

408 N 18th ST (HWY 23 N)

Phone (479) 667-3637

Ozark, AR 72949

Fax (479) 667-4627

June 12, 2014

ADPC & E Commissioners
c/o Mr. Doug Szenher
ADEQ
Public Outreach and Assistance Division
5301 Northshore Drive
North Little Rock, AR 72118

Dear Commissioners:

I want to thank you for the opportunity to comment on the proposed Third Party Rulemaking to change Regulations 5 and 6 entitled Liquid Animal Waste Systems and Regulations for State Administration of the National Pollution Discharge Elimination System, respectively.

I am opposed to any changes made in these regulations for the following reasons:

It is obvious that the reason this Third Party Rulemaking is a result of the issuance of the first CAFO permit issued in the State of Arkansas. C and H Farms followed all the laws and regulations to put in their 2500 head Swine CAFO. They have since followed all the laws of their permit and have operated their farm in a very responsible, environmentally friendly manner, going above what has been required of them.

The Commission should base its decision on science. Not fear (FEAR – False Evidence Appearing Real) and emotion or the fact that some opponents just do not like family pork production units and the idea of the C and H family operated swine farm located in the Buffalo River Watershed. Family pork production farms have been located in the Buffalo River Watershed for decades without this type of outcry from the environmental activists groups.

The research being performed at the C and H Family Farm by the Big Creek Research Team (U of A) is the most extensive performed on any farm in Arkansas and possibly the nation. I believe this Third Party Rulemaking is an effort to get out in front of the scientific results of this state funded study. I would like to ask the Commission to leave the regulations in their current form and let the research and science

take its course. This will provide the scientific data to see if any changes are necessary instead of basing the commission's decision on fear and emotion.

To make the changes in the Third Party Rulemaking sets a very negative precedent and is not based on science. This sets up a very slippery slope that could eventually affect all ERW watersheds in Arkansas. I know this Third Party Rulemaking only applies to the Buffalo River Watershed, Medium and Large Swine CAFO's, but what is next on the opposition's agenda against agriculture production. The proponents of this Third Party Rulemaking will tell you that this is just about the Buffalo River Watershed, but I'm not sure I buy that story. They have already tried an unsuccessful attempt in the 2013 legislative session to ban Swine Farms from the Buffalo River Watershed AND ALL EXTRAORDINARY RESOURCE WATERSHEDS in Arkansas.

This is a terrible precedent for the Commission to make especially when they have zero scientific basis to make it on. The Commission needs to deny the Third Party Rulemaking on Reg. 5 and Reg. 6.

The proponents of this Third Party Rulemaking go on and on about the threat of the waste handling storage lagoons leaking and the catastrophic failure. In Arkansas's long history of swine production we have NEVER had a catastrophic failure. The mid 1990's studies done of hog farms in the Buffalo River watershed showed that these lagoons had minimal to no impact on groundwater. Not because of the formation underlying them as some have claimed, but because they did not leak. These farms were constructed in the 1970's. Today's farms are constructed using much more stringent engineering design standards. If the ongoing research on C and H shows current regulatory requirements is not adequate, then the regulations can be modified to include additional permit requirements. This is a scientific approach.

A blanket application of this Third Party Rulemaking to the entire Buffalo River Watershed would be completely contrary to the science generated in the studies conducted on hog farms located in the Buffalo River Watershed in the late 1990's. Those farms were located in the Buffalo River Watershed in areas underlain by Karst formations and had minimal or no impact on surface and ground water when using the proper best management practices.

An outright change to Reg. 5 and Reg. 6 based on "potential" or "threat" is not a scientific approach.

If this issue is truly about protecting the Buffalo River then all "potential threats" need to be considered. Recreation and tourism should not be given a free pass to pollute. Tourism proponents like to dismiss pollution impacts of floating and recreation. There is absolutely no way that an estimated 1.5 million people can visit the Buffalo River National Park with more than 6,000 per day floating the Buffalo River and not have a very significant impact on water quality.

Much scrutiny has been given to the location of C and H Hog Farm and the land application of liquid fertilizer on the field next to Big Creek. The National Park Service applies more nutrients than C and H Farms generates every year to the fields that are right next to the Buffalo River versus 5 miles away.

These fields set on top of the Karst topography. If land application to the Karst topography is such a big concern then why is it okay for the National Park Service to violate the Buffalo River? Once again, the Commission should base their decision on Science not Emotion.

This Third Party Rulemaking is based on the "precautionary principle" and not objective sound science. The language in the rulemaking uses the words "threat" and "potential." The requirements in the CAFO regulation and permitting process have undergone intense scientific scrutiny and have been heavily litigated over the past decade. The Regulation 5 permit is an individual no-discharge permit and has been in place since 1992. It provides plenty of opportunity for public review and scrutiny. This process has served Arkansas well and I would like to encourage the Commission to make no changes to Regulation #5 and Regulation #6.

The Third Party Rulemaking of Regulation 5 and Regulation 6 is an infringement to farmer's right to farm and private property rights. American Agriculture is the backbone of our economy and our country. Our state's pork producer's have an excellent environmental record. They have proven to be responsible environmental stewards and have always been pro-active in working with ADEQ and its commissioners in meeting the challenges that have faced them.

I would like to thank you for allowing me to comment on these proposed changes. One again, I would like to ask the ADPC and E Commissioners to make their decision on sound scientific facts not on emotion and sound bites and deny any changes to Regulation 5 and Regulation 6.

Sincerely,



Kim A. Hogan, CPA

Director, Farm Credit of Western Arkansas