

Charles J. Bitting
HC 73, Box 182-A
Marble Falls, Arkansas 72601

July 27,2014

Doug Szenher
POA Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118

Dear Mr. Szenher

I am writing this letter to comment on the proposed regulation changes to APC&EC Regulation 6 (Regulations for State Administration of the National Pollutant Discharge Elimination System [NPDES]), Docket Number 14-004-R. I am a citizen of and land owner in Newton County, Arkansas and have lived in this area most of my life. I believe the public notification procedures used during the permitting process for C&H Hog Farm, Inc. (NPDES Permit # ARG590001) were seriously flawed and commend the Department for their efforts to right this wrong. While I feel the proposed changes are a step in the right direction, I think they should be modified further to ensure the public is fully aware of proposed CAFOs in their neighborhood, or those which may adversely affect their livelihood, property values, or health.

1. The notification should be sent to federal and state land management agencies within ten air miles of the proposed facility, or its manure spreading fields, or which are within 20 stream miles downstream of the proposed facility or its manure spreading fields. These land management agencies are tasked with protecting and conserving many of the plants, animals, geologic, natural, and cultural features and values that make the Natural State what it is. Lets not make their job any more difficult than it already is.
2. The notice should be published in the local newspaper(s) serving the area for at least two consecutive issues as well as the statewide newspaper of general circulation, in this case the Arkansas Democrat-Gazette, for two consecutive issues.

The Department, many other federal and state agencies, and private individuals have spent a great deal of time, money, and other valuable resources responding to the permit for C&H Hog Farm, Inc. These resources could have been spent more fruitfully had a robust public notification and awareness effort occurred before permitting.

Our republic was established on the theory that individual citizens have a social contract with one another, and the Constitution draws its power from this social contract. By extension, laws promulgated by Congress are part and parcel of this social contract, otherwise known as the Constitution of the United States, and gain their authority from this source. For instance, when Congress and the President established the Buffalo National River in March of 1972, the citizens of

the United States entered into a social contract to protect the Buffalo River. ADEQ as the delegated authority to administer the NPDES permit system by the USEPA is bound by this social contract, and has an obligation to the citizens of the United States to protect the scenic, recreational, and fish and wildlife values of the river present in 1972. This includes the quality of the water and the cleanliness of the air. Therefore, ADEQ should contact the National Park Service (NPS) whenever a CAFO is proposed within 10 miles of the national river, or is within 20 stream miles upstream of the Buffalo River.

The NPS manages several other sites throughout Arkansas. Each has unique legislation or a Presidential Proclamation establishing it, and none is an island unto itself. If an NPS managed area is within the prescribed distances of a proposed CAFO, that NPS area should be notified.

The United States Forest Service (USFS) manages large swaths of public land across Arkansas as well as the rest of the country. These lands are managed for a multitude of purposes. The USFS deserves notification of a CAFO being sited nearby to properly manage the lands under their stewardship for the benefit of the citizens of the United States.

The United States Fish and Wildlife Service (USFWS) manages numerous National Wildlife Refuges throughout the country. Several of these are found in Arkansas. These refuges are managed for their fish and wildlife benefit. The USFWS should be notified when a CAFO is planned to be installed near their land holdings.

The Arkansas Game and Fish Commission (AGFC) is responsible for the overall management of fish and wildlife resources in the State of Arkansas. They achieve this mission through a number of programs, including Wildlife Management Areas (WMAs). These WMAs are important refuges for fish and wildlife species. The AGFC should receive notification if a CAFO is proposed near one of the WMAs they manage.

The Arkansas State Parks and Arkansas Department of Heritage manage land holdings throughout the State. They and the citizens of Arkansas would benefit if they were notified of a proposed CAFO within the prescribed distances of the lands they manage.

Local newspapers provide a valuable service to their communities. They are the “go-to” sources of information about happenings in their respective areas. Statewide newspapers, such as the Arkansas Democrat-Gazette serve a similar purpose at the state level. It is easy to miss a single publication of a notice. It is more likely that a second publication of notice will be seen by enough people to mount an informed and well considered response. For this reason, I believe it is vital for the Department to do its utmost to ensure public notification is published for at least two publication cycles in the local and statewide newspapers.

Thank you for considering my support for the rulemaking, and my proposed changes to the regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles J. Bitting". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Charles J. Bitting