



HAROLD SMITH
NEWTON COUNTY JUDGE

PHONE: (870) 446-5127
FAX: (870) 446-5902

P. O. BOX 435
JASPER, ARKANSAS 72641

September 3, 2008

APC&E Commission
C/O Michael O'Malley, AHO
Fax: 501-682-7891

Attr: Mr. O'Malley, please forward this letter to each Commissioner this week.

Members of the Arkansas Pollution Control & Ecology Commission:

Last night at our Quorum Court meeting we were informed of the upcoming Public Hearing to be conducted by the Arkansas Pollution Control & Ecology (PCE) Commission at the Commission Room in the new ADEQ building on Northshore Drive, next week on Tuesday morning, September 9, at 9:00 a.m.

It is our understanding that in their process of revision, ADEQ is proposing to remove language from the current Regulation No. 8 (which governs the way ADEQ/PCE can regulate the public). The most troubling part of ADEQ's proposal is that they have stricken all the language that the General Assembly, via Act 1264 of 1993, required to be included in ADEQ's Regulation No. 8. That legislatively crafted language of 1993 requires ADEQ to obtain economic impact analyses on their proposed rulemakings that are more stringent than federal law requires. ADEQ's proposed alternative language supposedly broadens, but apparently weakens that protection significantly, that has now been in place since 1993 and kept the ADEQ agency from making any more ERW designations, etc. If ADEQ is successful in overriding General Assembly directive in this matter by persuading you, the PCE Commission to adopt their proposal, by the time it gets to the legislative review committee, it could cause considerable conflict between members of the General Assembly and your Commission, discrediting and/or delaying your procedures, etc. To be safe, **IT NEEDS TO BE CHANGED BEFORE YOU, THE PCE COMMISSION, ADOPTS IT**, both to save taxpayer time and money as well as unnecessary legislative intervention further down the road and very likely much public outcry regarding this matter.

We are requesting that you, officially enter our comments into your records for the Hearing next Tuesday, asking that you, the Commission require ADEQ to retain ALL the section(s) of Regulation No. 8 that pertain to Act 1264 of 1993, exactly as they are in the current Regulation No. 8 as well as any other legislatively mandated portions of Regulation No. 8, if any other.

Thank you for your attention to this matter of immediacy. Please send your written response to our request/comment to us at the above address.

On behalf of the Newton County Quorum Court, I am

Respectfully Yours,

Newton County Judge Harold Smith

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ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION
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