

Governor Asa Hutchinson
State Capitol, Room 250
500 Woodlane Avenue
Little Rock, AR 72201

~~March 28, 2017~~ *June 20, 2017*

Dear Governor Hutchinson,

I am writing again to express my dismay at the actions (and nonaction) of the Arkansas Department of Environmental Quality, whose members you have appointed, so far as I know. Who are these people, why are they not representing the interests of environmentally conscious experts and citizens, and why are they ignoring the thousands and thousands of Arkansans who want to know why a permit was ever issued for the disgusting C&H factory farm?

The fact that the permit was ever issued at all is appalling, and the fact that it was done sub rosa without notifying the public, the Fish & Wildlife Service, or the Department of the Interior and other involved Buffalo River officials is unforgiveable. This national river is one of the gems of our state and brings millions of dollars in revenue to the state annually. If the Buffalo is contaminated by—let us call it what it is: pig shit—this beautiful river will never be the same.

Now you have the opportunity to undo this environmental blight once and for all. The requested new permit for the hog farm, which would ensure its legality forever—and even INCREASE the number of animals and the amount of polluting animal waste allowed—must be denied.

This farm is not a boon to Arkansas in any respect. It supports very few jobs, the profits go to one family, and the products of the farm are now being sold to a Brazilian company and do not benefit our state in any way.

Why is it that the AEQ continues to support this operation and to deny or ignore all scientific evidence—and ordinary common sense—showing that contamination is already occurring, and is likely to increase catastrophically in the event of a severe weather situation such as a flood? Who is being paid off? The entire situation smacks of corruption. That is the only conclusion an ordinary citizen can draw from the way this situation has been handled from the start.

The people of Arkansas are outraged and will not be satisfied until this ugly, smelly, and basically illegal (no satisfactory environmental impact statement has ever been done!) operation is GONE from the Arkansas landscape.

Your predecessor says the creation of this blot on the landscape was his greatest regret as governor. You now have the chance to undo this misguided and unwelcome permit and earn the gratitude of all Arkansas outdoorsmen and women, hunters, fishermen/women, hikers, floaters, campers, and nature lovers who want the Buffalo to remain in its pristine beauty for our children and grandchildren to enjoy its clean, unpolluted waters in perpetuity.

DENY THIS PERMIT and save the Buffalo again!

Yours truly,



Nancy L. Baxter
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Encl: Mike Masterson's column from the *Arkansas Democrat-Gazette* containing the letter of a Madison County farmer who shares these views

Cc: Arkansas Department of Environmental Quality
Attn: Katherine McWilliams, Office of Water Quality, 5301 Northshore Drive, North Little Rock, AR 72118-5317



On 'sound science' Consider data sources on Buffalo

GORDON WATKINS
SPECIAL TO THE DEMOCRAT-GAZETTE

Governor Hutchinson: We appreciated your letter of April 14 regarding the C&H operation. We agree with your sentiments regarding the value of the Buffalo National River as well as the importance of sound science for informing good decisions, but we respectfully contend that the sources of your scientific information are inadequate and politically tainted.

Consider the Department of Environmental Quality, which serves as the state's nonpartisan source for reliable environmental science. Regrettably, its reputation was harmed by the mere act of issuing the C&H permit, especially without public notice or the requisite construction permit. As a result, the standard geological review by a staff geologist was bypassed. If a permit for a large industrial CAFO in a geologically sensitive watershed, which flows into our national river, is not significant enough to require review by a staff geologist, what permit would trigger such review?

Further, engineering guidance provided by the Agricultural Waste Management Field Handbook, a key regulatory document, was ignored when the permit was first reviewed. The agency has irreparably discredited itself scientifically.

Consider the Big Creek Research and Extension Team, whose role you emphasized as being of key importance in assessing the impact of the hog farm. Gov. Mike Beebe enlisted the UA School of Agriculture, which then created the Big Creek team, to monitor the environmental impact of the hog farm. Later the Cooperative Extension Service joined the team. The service primarily assists farmers, which creates an unavoidable conflict of interest for the team between its original mandate to monitor versus now, the role to help C&H succeed.

Early on, the Big Creek study was reviewed by an independent panel of experts who noted a number of shortcomings, including that the team was not sampling Big Creek during storm events, times which typically result in nutrients and pathogens being washed from the fields into the streams. The panel pointed out that the team was conducting tests under conditions that were less likely to reveal a problem. This and other panel recommendations were discounted. Most egregious however was the team's withholding of the controversial taxpayer-funded electrical resistivity imaging pond data for over a year until our organization stumbled upon it and made it public.

The team's credibility was severely damaged and its priorities are now in doubt.

In response to that scandal, the Department of Environmental Quality hired Harbor Environmental to drill a single hole near the C&H ponds. It ignored numerous credible scientists, including the project's own indepen-

Guest writer

dent geologist, who advised them that a single hole was inadequate to determine much of anything. M.D. Smolen, Ph.D., with 35 years of experience in water quality management said: "Although leakage from the ponds has not been confirmed to date, any seepage or direct leakage from the ponds would be transmitted to groundwater and ultimately to the Buffalo River. The fact that Harbor Environmental did not confirm any ground water contamination is not conclusive because they only drilled one hole." When its report was completed, the department forbade direct communication between Harbor and the scientific community or the public. Whether Harbor did good work or not, the results were tainted by the way the department controlled the process, which further solidified its deteriorating scientific credibility.

Governor, you have characterized the public as "emotional," but two to three million gallons of raw hog waste disposed of on fields upstream of our national river is certainly going to elicit a strong public response. Threats to treasured wild places do that. But the fact is that real science is validating the public's concerns. The National Park Service and the U.S. Geological Survey agree that Big Creek is now impaired for dissolved oxygen, a sign of nutrient overloading. The Big Creek team's own data shows elevated nitrate levels. Dr. JoAnn Burkholder, a William Neal Reynolds distinguished professor, says: "The data clearly indicate that the C&H CAFO is contributing swine waste pollution to adjacent public trust waters. The nitrate levels downstream from this CAFO commonly are levels that have been shown in other research to be toxic to sensitive aquatic life."

The data also show elevated levels of E. coli, which as you know has human health implications. Dr. Burkholder notes: "These data indicate that the C&H CAFO is discharging E. coli bacteria which are contributing to the pollution of Big Creek in the CAFO area and downstream waters."

Governor, we simply don't have the space here to show you all of the real science. We recently submitted nearly 100 pages of comments to the Department of Environmental Quality. Our scientific sources are well-credentialed, reliable, and nonpartisan. Your current sources are pandering to special interests and are insufficient to properly inform your decisions. For the sake of our national river, its ecology, and the powerful tourism economy that it supports, please don't gamble. Look beyond your current sources for truly "sound science."

Gordon Watkins is president of the Buffalo River Watershed Alliance.

'Clearly malfeasant'

Geologist speaks

A former 30-year veteran of the Arkansas Department of Environmental Quality (wheeze) has written an explosive letter claiming malfeasance and flawed findings, saying that agency inexplicably failed to consult its own geologists before issuing the original permit to C&H Hog Farms at Mount Judea.

Gerald Delevan, previously a geology supervisor at the department, sent a lengthy letter (edited portions below) to Jamal Solaimanian, engineering supervisor of the agency's Water Division, which listed numerous objections to support his assertions.

The review and approval of the initial application "to allow the land application and disposal of a large volume of untreated hog waste in the Big Creek watershed under a General Permit ... was at best poorly conceived and poorly executed by Water Division staff," Delevan wrote.

To his knowledge, he said, the initial application was never reviewed by any geologist throughout the agency before the permit was issued.

Delevan said had the geologists been allowed to review the application, it's highly unlikely any of them would have signed off on the proposed permit without requesting geologic data about the locations and proposed land application sites.

"I believe the permit review process conducted by the Water Division engineers ... was severely flawed," Delevan wrote, "as it failed to adequately consider several issues, the first being the potential impact of locating this hog farm and its associated land application sites on the shallow karstic limestone geology beneath the site" prior to issuing the permit.

"In addition, Water Division engineers were clearly malfeasant in their review of the ... application, as they failed to consider missing key data needed to properly and adequately evaluate the potential environmental impact of this ... operation on the local environment."

Delevan said the known presence of karst beneath the proposed locations along or around Big Creek, a major Buffalo tributary, should have raised a major "Red Flag."

It's not as if this highly trained veteran geologist didn't fully understand the process, having participated in the review of all types of permits, writing their requirements, and responding to public comments. He also understands the nature of the fragile subsurface underlying this grossly misplaced swine factory. "The limestone geology ... is known to be highly fractured, with numerous voids and conduits which move surface water and ground water rapidly through a vast system of interconnected fractures, solution channel and springs just inches below the soil profile."

The C&H Environmental Assessment as part of the permit application barely mentions or discusses subsurface geology beneath the sites, he added, "or discuss any possible impacts hog farm operations may or may not



Mike Masterson

have on shallow local ground water supplies present beneath the farm and land application sites. The [assessment] also failed to discuss any potential impacts to surface water quality or ground water quality from waste infiltration or waste water runoff ...

"It is clear, Water Division engineers and [Environmental Quality] senior staff, by overlooking these omissions ... and by not requesting additional information be provided by the applicant in regard to these omissions, [the Department of Environmental Quality] failed to adequately review the C&H application as submitted."

Therefore, Delevan wrote, his former employer should not have issued the final permit to C&H until the deficiencies were addressed. "It is also my opinion [the department] was also malfeasant by not having [a department] registered professional geologist or any other geologist from any agency ... review and comment ... prior to its approval and issuance."

Delevan wrote that the agency has options. "It is hoped the agency will do the right thing and step back from seemingly stumbling blindly along ... and take the time to evaluate all of the data collected by all of the researchers and scientists, prior to issuing the final permit to C&H.

"Hopefully," he continued, "this approach would allow ... staff conducting the permit review to make a better informed decision regarding whether or not the proposed permit modification application for C&H Hog Farms should be approved and issued by [the department]."

"If the data indicates the ongoing farming operation at C&H is already adversely impacting the water quality in Big Creek, then [the farm] is in violation of the Arkansas Air and Water Pollution Control Act and [its] current permit. If this is the case, the proposed permit modification ... should, in my opinion, be denied."

Delevan's opinion is that granting the permit "will ultimately lead to the slow, long-term, inevitable degradation of overall water quality" in surface and groundwater supplies.

Delevan said he sent a copy of his letter to Gov. Asa Hutchinson, who is receiving plenty of credible forewarning of what many believe is a catastrophe waiting to happen on his watch. See Delevan's full letter at tinyurl.com/m4tu4sq.

Mike Masterson's column appears regularly in the Arkansas Democrat-Gazette. Email him at mmasterson@arkansasonline.com.

DO NOT APPROVE THIS PERMIT!
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