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Verbal Comment Written Comment
Speaker # (Attached or back of card)

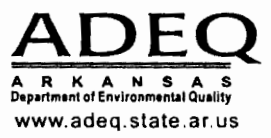
Hearing Location JAS PAR

Name GORDON WATKINS

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City Parkton State AR Zip Code 72666

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BUFFALO RIVER WATERSHED ALLIANCE

PO Box 101, Jasper, AR 72641
(870) 446-5783 buffalowatershed@gmail.com

April 20, 2015

To: Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

VIA HAND DELIVERY AT PUBLIC HEARING, JASPER, AR

Re: Modification Request for C&H Hog Farms, Inc. NPDES
Permit No. ARG590001, File AFIN 51-00164

My name is Gordon Watkins and I live in Parthenon, AR. I am speaking today as President of the Buffalo River Watershed Alliance, an organization with over 1,000 supporters.

My comments are in response to recent documents submitted by C&H Hog Farms, Inc. to your office including its Modification Request posted January 24, 2015, in particular, the request to use a vac tanker to apply waste from ponds 1 and 2 to fields 1-4 and 7-17. Associated with this modification by reference are the Revised Comprehensive Nutrient Management Plan, posted February 26, 2015, the 2014 Annual Report, posted January 27, 2015, and the 2014 Annual Report Aggregate Phosphorus Index Spreadsheets, posted February 26, 2015. I will present three reasons why we believe this modification should be denied.

1) All of these documents continue to contain or refer to incorrect maps and land use contracts, specifically regarding ownership of field 5 and parts of fields 12 and 16.

Former Director Marks in a letter to Earthjustice , dated February 20, 2014 (attached), stated that C&H Hog Farms was to submit new, correct maps to ADEQ by March 30, 2014. Director Keogh, in a letter to Earthjustice dated April 7, 2015 (attached), almost a year later, confirmed that, *"to date the Department has not received any additional information clarifying the ownership of the fields in question."*

Further, Director Keogh, stated that land application to fields 5, 12 and 16 *"will be prohibited until such time that the issue is resolved or a request is submitted for modification of the property in question."*

However, the 2014 Annual Report Aggregate Phosphorus Index Spreadsheets (Aggregate Split Application Table), posted February 26, 2015, clearly indicate that fields 12 and 16 did in fact receive waste applications for the period March - June 2014 (48,000 and 56,000 gallons respectively).

Fields 12 and 16 are included as part of this modification request and still continue to be knowingly misrepresented by incorrect maps and erroneous land use contracts, in violation of the directives of former Director Marks. These fields received waste applications in 2014 and are proposed to receive waste applications in 2015. This is in direct violation of the prohibitions stated by Director Keogh.

For these reasons, we object to the approval of this, and any other, modification request until such time as the mapping and land use contracts are corrected.

2) Further, the Narrative Statement contained in Section A of the Nutrient Management Plan includes the statement, *"Effluent from Waste Storage Pond 1 will be applied through a Vac Tanker, whereas the effluent from Waste Storage Pond 2 will be applied through a traveling gun and a permanent pipeline."* Section A is not included in this Modification Request and directly contradicts the proposed modification. This modification should be denied because it will add yet another source of confusion, contradiction and misinformation contained in the Nutrient Management Plan, further compounding the errors in this already seriously flawed document.

3) Finally, we contend that this modification should be denied and the **full** permit should be reopened for public review and comment due to the numerous continuing errors, omissions and unexplained assumptions contained in the referenced documents as detailed in a letter to your Department from Earthjustice, dated March 9, 2015 (attached). Director Keogh, in her response on April 7, 2015 (attached), herself considered this letter to be in response to the modification request and the concerns expressed therein regard documents which control how this modification proposes to be implemented and are therefore pertinent to the scope of this hearing.

Thank you,

Gordon Watkins, President
Buffalo River Watershed Alliance

Attachments:

- Letter from former Director Marks to Earthjustice , dated February 20, 2014.
- Letter from Earthjustice to Director Keogh, dated March 9, 2015.
- Letter from Director Keogh to Earthjustice, dated April 7, 2015.
- C&H Hog Farms 2014 Aggregate Split Application Table

ADEQ

ARKANSAS
Department of Environmental Quality

February 20, 2014

Earthjustice Northeast
48 Wall Street, 19th Floor
New York, NY 10005
neoffice@earthjustice.org

RE: Response to Earthjustice's letter regarding C&H Hog Farms, Inc.
Permit Tracking No. ARG590001 AFIN 51-00164

Dear Ladies and Gentlemen:

The Arkansas Department of Environmental Quality ("ADEQ" or "Department") takes the responsibility to protect the environment of the State of Arkansas very seriously. Our concerns encompass all waters of the State, including the Buffalo River. I offer the following in response to the issues over which ADEQ has regulatory authority as referenced in your February 12, 2014 correspondence.

The Department is closely monitoring the operations at C&H Hog Farms, Inc. ("C&H Hog Farms"). One stated intent of your letter was "to inform ADEQ of new and relevant information concerning C&H Hog Farm"; however, as acknowledged by your letter, ADEQ's inspection reports had already noted discrepancies in the land application fields prior to receiving your letter. (Please see the attached inspection reports and responses.)

As for the concerns regarding the land application sites, according to C&H Hog Farms's September 20, 2013 response to an ADEQ inspection report, land application activities on Field 5 have ceased until the map discrepancy is resolved. Modification of the Nutrient Management Plan ("NMP") would be required prior to use of this property for land application activities (or if additional land application sites were proposed to be added). Additionally, after a review of the NMP and available acreage, ADEQ has determined that adequate property exists for land application of all generated wastes, even without Field 5 and the questioned portions of Fields 12 and 16. Land application rates are based on the Arkansas Phosphorus Index, which assesses the runoff risk value to adjacent surface waters and determines the appropriate allocation of nutrients for each receiving field. The Phosphorus Index scale applies a class label to the amount of 'risk' of discharge of phosphorus during land application. The Department believes that land application in accordance with the Phosphorus Index is protective of waters of the State. It should also be noted that in an instance of more waste being generated than can be land applied to the fields as allowed under this permit, Section 3.2.3 of the Concentrated Animal Feeding Operations ("CAFO") general permit allows for the transfer of manure or process wastewater to other persons with authority to land apply the waste. Records must be kept of these transfers for a period of five years.

If Field 5 and portions of Fields 12 and 16 were to be removed from the NMP without any other proposed changes, this would be considered a non-substantial change in accordance with Part

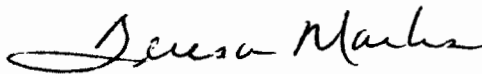
3.2.6.4(d) of the CAFO general permit. Non-substantial changes of the NMP do not require a public notice and comment period, but any such changes would be made publicly available on the ADEQ website. If land application sites were proposed to be added, then that change would be a modification requiring public notice and comment. To date, no such change has been proposed by C&H Hog Farms. C&H Hog Farms has stated that it is working with an engineer to revise the land application maps, which it will submit to ADEQ by March 30, 2014.

For the reasons stated above it is not my intent at this time to reopen C&H Hog Farms permit coverage in its entirety. However, ADEQ will continue to review the CAFO general permit and the Annual Reports submitted by C&H Hog Farms to ensure continued compliance with applicable law and regulations.

With reference to the research study being performed by the University of Arkansas Big Creek Research Team, the Department agreed to have neither authority over, nor direct knowledge of, the day-to-day activities of the research team in order to ensure that the research is being performed as an independent review of the permitted facility. I would therefore ask that all questions regarding the study be directed to the University of Arkansas.

Thank you for your attention to this matter. If there are any questions concerning this submittal, please contact John Bailey, Permits Branch Manager in the Water Division, at (501) 682-0629 or by email at bailey@adeq.state.ar.us.

Sincerely,



Teresa Marks
Director

TM:kay/cv

cc: Hank Bates, Carney Bates Pulliam PLLC (hbates@cbplaw.com)
Kevin Cassidy, Earthrise Law Center (cassidy@lclark.edu)
Bob Allen, Arkansas Canoe Club (bob@ozarker.org)
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ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

March 9, 2015

Becky Keogh
Director
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317
Email: Keogh@adeq.state.ar.us

**VIA FIRST CLASS MAIL
AND ELECTRONIC DELIVERY**

Ryan Benefield
Deputy Director
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317
Email: benefield@adeq.state.ar.us

Re: 2014 Annual Report for C&H Hog Farms, Inc. and Letter of
Incompleteness, NPDES Permit No. ARG590001, File AFIN 51-00164

Dear Director and Deputy Director:

This letter is in regards to recent documents submitted by C&H Hog Farms, Inc. in response to your Letter of Incompleteness, dated January 9, 2015, pertaining to their 2014 Annual Report. In particular, our comments refer to the 2014 Annual Report, the Revised Comprehensive Nutrient Management Plan, dated January 26, 2015, and the 2014 Annual Report Aggregate Phosphorus Index (PI) Spreadsheets.

2014 Annual Report

We note that Nutrient Management Plan (NMP) Revisions were prepared for Winter (dated 12/18/13), Spring (4/3/14), and Summer (undated). Between Spring and Summer the PI Ranges for some fields were revised upwards from Low to Medium, specifically fields 2, 3, 7, 9, 11,12, and 16. In our analysis of the increasing Phosphorus Index (PI) Ranges, we note several apparent deviations from the permit:

Letter to Becky Keogh and Ryan Benefield

March 9, 2015

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- 1) The Revised Universal Soil Loss Equation (RUSLE) values, a measure of erosion rates, have been changed without explanation. They are much lower than in the original NMP and it appears that low values were used in place of high values without explanation. These are extremely important values for calculating the P index and are not values which should be changing rapidly over time. An explanation for this change should be required.
- 2) Field application areas have been significantly reduced to 335 acres with no explanation or mapping. There is no way to determine slopes, where soil samples were taken or where waste was applied.
- 3) Soil Test Phosphorus (STP) variations were significant with large declines on fields 1,7,10, and 17 and large increases on fields 3,8, and 12. Because there are no maps indicating soil sampling locations these unexplained variations raise serious questions about their accuracy. Missing data should be provided by C&H.
- 4) While the Winter Revision does not appear to show over application, we note that nearly the full annual allowed rate of Phosphorus (P) was applied on fields 3, 15 and 17 even though crops were dormant. This would appear to be a case of waste disposal rather than nutrient management and is exactly the type of disposal practice which should be prohibited in the Buffalo River Watershed.

2014 Annual Report Aggregate Phosphorus Index Spreadsheets

These spreadsheets, submitted in response to your request for seasonal, rather than annual, data, appear to be based on assumptions and data which are not supplied. They deviate significantly from the data provided in the Revised NMP and require further explanation.

- 1) The columns for "Field Area (ac)" and "Appl Area (ac)" deviate significantly from those in the Revised NMP and account for a total of only 60 acres without explanation.

Letter to Becky Keogh and Ryan Benefield

March 9, 2015

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- 2) No data is provided on the amount of N (nitrogen) or P (phosphorus) applied to each field, which makes it difficult to assure that application rates have not been exceeded. This data should be provided in a Field Nutrient Application Planning spreadsheet, on a per acre and per field basis, as was provided in the NMP.
- 3) The RUSLE1 and RUSLE2 values now are identical and differ significantly from those contained in the NMP without explanation.
- 4) The Best Management Practices spreadsheets include data on fields 1-4, 12 and 13 only. No data on the remaining fields is provided. The data which is provided shows the P Index values for all fields as "low". This deviates significantly from the Revised NMP values and requires explanation.
- 5) The Aggregate Split Application Table shows only the gallons applied, not the gallons approved, and provides no data on the content of N and P per gallon, again making it difficult to determine if application rates have been exceeded.
- 6) The same table, when the figures are added, shows a Yearly Total gallons applied to all fields of 2,367,400 gallons. The 2014 Annual Report states 2,614,059 gallons of waste produced and the Revised NOI states 2,090,081 gallons. There is a significant deviation between these numbers. Which is correct?

We contend that the above noted issues, including modified RUSLE values, changing field dimensions without providing a map, apparently missing data, unexplained assumptions, and deviations from the Nutrient Management Plan, together constitute a substantial modification of the permit requiring that the full permit be reopened for public comment and review.

Sincerely,



Monica K. Reimer
Attorney

Letter to Becky Keogh and Ryan Benefield

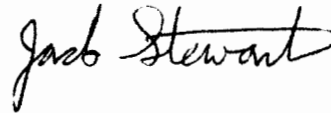
March 9, 2015

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On behalf of:



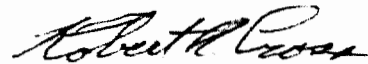
Bob Allen
Arkansas Canoe Club



Jack Stewart
Buffalo River Watershed Alliance



Emily Jones
National Parks and Conservation Association



Robert Cross
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ADEQ

ARKANSAS
Department of Environmental Quality

APR 07 2015

Monica K. Reimer
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floffic@earthjustice.org

RE: Response to Earthjustice's letter regarding C&H Hog Farms, Inc.
Permit Tracking No. ARG590001 AFIN 51-00164

Dear Ms. Reimer:

The Arkansas Department of Environmental Quality received your comments on March 9, 2015, regarding the modification request by C&H Hog Farms, Inc. The Department would like to offer the following responses.

In regard to the revision of maps for Field 5 and portions of Fields 12 and 16, to date the Department has not received any additional information clarifying the ownership of the fields in question. Land application to these fields will be prohibited until such time that the issue is resolved or a request is submitted for modification of the property in question.

In order to ensure that the research being performed is an independent review of the permitted facility, the Department does not have direct authority over the day-to-day activities of the University of Arkansas System, Division of Agriculture Big Creek Research Extension Team. The Department therefore asks that all questions regarding the study and interpretation of field numbers being used be directed to the University of Arkansas.

Please be aware in accordance with APC&EC Regulation 8.214, your comment was received prior to the March 18, 2015 comment period and cannot be considered part of the public record for the modification to the Nutrient Management Plan (NMP) under consideration. In addition, be advised that this is a modification of coverage under the NPDES General Confined Animal Feeding Operation Permit No. ARG590000 and in accordance with 40 C.F.R. Part 122.62 as incorporated by reference in Regulation 6, only the conditions which are the subject to the modification are reopened for comments.

Nonetheless, if you would like your comments to be included in the public record for the modification of the NMP, please resubmit them to the Department. The public comment period is open until 4:30 p.m., April 17, 2015.

Thank you for your attention to this matter. If there are any questions concerning this submittal, please contact John Bailey, Permits Branch Manager in the Water Division, at (501) 682-0629 or by email at bailey@adeq.state.ar.us.

Sincerely,



Becky W. Keogh
Director

BWK:kay/km

cc: Bob Allen, Arkansas Canoe Club (bob@ozarker.org)
Jack Stewart, Buffalo River Watershed Alliance (jampack1@mac.com)
Emily Jones, National Parks and Conservation Association (ejones@npca.org)
Robert Cross, Ozark Society (racross@uark.edu)
Carl E. Wills, EPA, Region 6 (Willis.carl@Epa.gov)
Willie Lane, EPA, Region 6 (Lane.willie@Epa.gov)

2014 Aggregate Split Application Table

Field	Soil Only P Index Timing Value	Manure Contribution Values			Yearly Total Per Acre Per Field P Index
		Nov-Feb Gallons/ac Gallons/field P Index	March-June Gallons/ac Gallons/field P Index	July-Oct Gallons/ac Gallons/field P Index	
H1	Mar-June PI 6	0	3,540/ac	0	3,540/ac
		0	46,000/field	0	46,000/field
		0	PI 11	0	PI 17
H2	Mar-June PI 13	0	3,770/ac	0	3,770/ac
		0	22,600/field	0	22,600/field
		0	PI 18	0	PI 31
H3	Nov-Feb PI 15	4,710/ac	0	4,110/ac	8,820/ac
		56,500/field	0	61,600/field	118,100/field
		PI 15	0	PI 13	PI 43
H4	Mar-June PI 9	0	3,390/ac	0	3,390/ac
		0	28,800/field	0	28,800/field
		0	PI 16	0	PI 25
H7	Mar-June PI 14	0	4,550/ac	2,480/ac	7,030/ac
		0	200,200/field	196,000/field	396,200/field
		0	PI 17	PI 8	PI 39
H8	July-Oct PI 5	0	0	2,780/ac	2,780/ac
		0	0	25,000/field	25,000/field
		0	0	PI 4	PI 9
H9	July-Oct PI 7	0	0	2,970/ac	2,970/ac
		0	0	103,800/field	103,800/field
		0	0	PI 9	PI 16
H10	Mar-June PI 2	0	3,690/ac	4,140/ac	7,830/ac
		0	129,000/field	120,200/field	249,200/field
		0	PI 7	PI 6	PI 15
H11	Mar-June PI 5	0	3,000/ac	0	3,000/ac
		0	51,000/field	0	51,000/field
		0	PI 14	0	PI 19
H12	Mar-June PI 11	0	4,850/ac	0	4,850/ac
		0	48,000/field	0	48,000/field
		0	PI 18	0	PI 29
H13	Mar-June PI 4	0	3,010/ac	3,000/ac	6,010/ac
		0	177,500/field	276,050/field	453,550/field
		0	PI 14	PI 13	PI 31
H14	Mar-June PI 1	0	3,000/ac	3,500/ac	6,500/ac
		0	45,000/field	28,000/field	73,000/field
		0	PI 6	PI 6	PI 13

Field	Soil Only P Index Timing Value	Manure Contribution Values			Yearly Total Per Acre Per Field P Index
		Nov-Feb Gallons/ac Gallons/field P Index	March-June Gallons/ac Gallons/field P Index	July-Oct Gallons/ac Gallons/field P Index	
H15	Nov-Feb PI 7	2,700/ac 54,000/field PI 11	2,910/ac 157,200/field PI 14	2,970/ac 190,200/field PI 13	8,580/ac 401,400/field PI 45
H16	Mar-June PI 7	0 0 0	6,220/ac 56,000/field PI 23	0 0 0	6,220/ac 56,000/field PI 30
H17	Nov-Feb PI 3	3,000/ac 6,000/field PI 7	2,730/ac 120,000/field PI 6	2,860/ac 168,750/field PI 5	8,590/ac 294,750/field PI 21