

“Protecting the public health and natural resources of the
White River watershed through advocacy, education, and research”

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Re: Proposed third-party rulemaking to Regulation 2 for Holman Creek, Town Branch, and War Eagle Creek by City of Huntsville.

The comments provided in this letter should be taken to reflect the opposition to the proposed removal of the domestic water supply designated uses for Holman Creek and Town Branch, and to the proposed criteria changes to Holman Creek, Town Branch, and War Eagle Creek.

Insufficient data and explanations have been provided to determine the necessity of removing the domestic water supply designated uses.

- EPA requested that the City of Huntsville demonstrate that the domestic water supply uses for Holman Creek and Town Branch are “not attainable¹.” While letters from Arkansas Department of Health and Arkansas Natural Resources Commission addressed the lack of current or planned domestic water supply use, it has yet to be demonstrated that these uses are **not attainable** for these stream reaches.
- The cost of alternatives, based on literature over twenty years old², is not representative of current technology costs. *Also, please explain the relevance of using implicit price deflator data for the adjustment of technological treatment costs.* Inflation may be a significant way of determining relevant cost differences across time periods for commodities that are relatively static in their production costs. It is not understood how technological advances that provide greater treatment costs at more affordable rates could in any way be accurately represented by this approach. There were no quotes obtained to comprehensively evaluate potential alternatives or references to costs of similar infrastructure upgrades from the last decade. This effort is not sufficient.
- In response to comments it was stated that land application was not a viable option because “land application requires characteristics, remote location, etc.) land. Significant areas of suitable (slope, soil characteristics, remote location, etc.) land. Because Huntsville is situated in the Ozark Highlands, adequate nearby land having characteristics

¹ See p. 5, Question 28, of Exhibit C – EPA’s May 19, 2016 Comments

<https://www.adeq.state.ar.us/regs/drafts/3rdParty/reg02/13-006-R/20170824-amended-responsive-summary.pdf>

² See p. 13 of *Id.*

compatible with ADEQ restrictions for land application of treated effluent is not available.³ However, ADEQ has issued *many* land application permits within the Ozark Highlands. This alternative was not even remotely explored or considered.

Information provided by the Site-Specific Water Quality study are not sufficient to determine that existing uses will be maintained with the proposed criteria.

- ADEQ has not developed unique mineral criteria specific to the protection of Agricultural Supply uses. The criteria used to assess those uses are the same as criteria for the assessment of Domestic Water Supply uses (250, 250, 500 for Cl, SO₄, and TDS, respectively). *Has there been any examination of whether these proposed criteria changes could impact livestock operations relying on water from these stream reaches? Are there any grazing cattle operations that could be negatively impacted by the proposed changes?*
- The aquatic life collections were not conducted in a fashion that allows for the evaluation of spatial or temporal differences to be examined (i.e., no replicate samples were collected). Without such, it is impossible to tell whether there are significant differences noted at upstream and downstream sampling locations on each stream.
- While the selection of the reference reaches is suitable for determining the impacts from a particular point source in relation to other contributing factors, it does not mean that the reference reach was a suitable representation of least-disturbed streams in the Ozark Highland ecoregion.
- There was no discussion of how reach length was determined.
- It was stated that “the fish sampling was terminated when, in the opinion of the principal investigator, a representative collection had been obtained.” This infers that the entirety of the stream reach used for habitat characterization was not sampled. Since there is no information provided in the report that indicates the habitat conditions of the area sampled; then it is impossible to determine how much habitat differences factored into metrics based on the fish community.
- *What fish species were categorized as tolerant, intolerant, and intermediate? No comments on the appropriateness of such categorization can be provided without that pertinent information being included in the report.*
- *Isn't WEC-1 the reference reach? Since the multimetric assessment is to be utilized to determine the impairment status of an impacted reach, then how was the % comparison to reference was only 94% and not 100%...seeing as how WEC-1 was the reference reach⁴?*
- *Are the biotic index values referenced in Appendix E the tolerance values for macroinvertebrate taxa utilized in the calculation of Hilsenhoff Biotic Index?*
- Proposed criteria are based on the 95th percentile of water quality data. However, the assessment of these streams allow for a 10-25% exceedance rate, depending on whether the Department is choosing to adhere to EPA approved water quality standards. Setting

³ Pp. 12-13 of 20170804 amended responsive summary <https://www.adeq.state.ar.us/regs/drafts/3rdParty/reg02/13-006-R/20170824-amended-responsive-summary.pdf>

⁴ Table 5.14 of revised report.

the criteria based on this percentile, along with allowing up to 25% exceedance of this standard, should in fact ensure that the City of Huntsville will not cause a future impairment listing to minerals to these stream reaches. This in no way translates to the protection of aquatic life, however.

Thank you for the opportunity to comment on this proposed rulemaking. I hope that ADEQ will prioritize the necessity to create standardized requirements for the review of aquatic life studies for Use Attainability Analyses. It appears that this has been a long process to propose these changes, and likely a costly endeavor for the City of Huntsville. However, this study design did not sufficiently evaluate the protection of aquatic life and inadequate consideration has been given to alternatives to removing domestic water supply uses.

Respectfully,



Jessie J. Green
Executive Director & Waterkeeper
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