

From: J. Scott Stanley [mailto:scott.stanley@jaystanley.com]

Sent: Thursday, June 26, 2014 8:36 PM

To: Reg-Comment

Cc: Marks, Teresa; Commissioners

Subject: Concern about ongoing operations of C&H CAFO in Newton county and policy regarding future permits for CAFO in sensitive Watersheds.

Commission Members

Thank you for pressing the pause button for authorization of additional CAFOs. I know the delay is about to expire.

As a small business owner and tax payer I have a real problem with tax dollars being used to subsidize the operations of large companies.

We are an Arkansas company but we only employ 13 people. We cannot afford to hire a team of lawyers, lobbyist and accountants to insure we always get favorable results from the US and Arkansas governments. All we can really do is plead to loyal public servants to act on the behalf of the largest number of Arkansans in their decision making.

You can see in my thread below that I have numerous valid concerns about the C&H permit. I also have private interest and "for the good of Arkansas" reasons I am totally against any CAFO draining into the Buffalo River.

I know there we all need economic development, people have rights to do things on their lands that do not impact others. The Precaution Principle should be applied in this case:

http://en.wikipedia.org/wiki/Precautionary_principle

The **precautionary principle** or precautionary approach states that if an action or policy has a suspected risk of causing harm to the [public](#) or to the [environment](#), in the absence of [scientific consensus](#) that the action or policy is not harmful, the [burden of proof](#) that it is *not* harmful falls on those taking an action.

The principle is used by policy makers to justify discretionary decisions in situations where there is the possibility of harm from taking a particular course or making a certain decision when extensive scientific knowledge on the matter is lacking. The principle implies that there is a [social responsibility](#) to protect the public from exposure to harm, when scientific investigation has found a plausible risk. These protections can be relaxed only if further scientific findings emerge that provide sound evidence that no harm will result.

In some legal systems, as in the [law of the European Union](#), the application of the precautionary principle has been made a [statutory](#) requirement in some areas of law.

In the case of any CAFO in the Buffalo Watershed it likely be impossible for anyone to prove this. If they want to proceed with the process they should meet these requirements:

1. Pay real cost of permit process
 - a. ADEQ has spent hundreds of thousands of dollars keeping the C&H permit in place. C&H paid less than \$500 for the permit.
 - i. It is unreasonable for C&H or any other CAFO entity to receive this “free ride” at tax payer expense.
 - ii. ADEQ should bill the real cost/hour for these applications. I suspect by the time you factor in all employee costs the real cost of this to C&H should have been billed at \$2-3K/hour. If a prospect is determined to proceed then please step up and pay for your desires.
2. Bond the results of your facility.
 - a. In talking with ADEQ engineers tables of engineering data are cited. There are a lot of places in Arkansas where a CAFO would be perfect. The Buffalo River is an exception. No one ever adds the sentence “If I am wrong I will pay for it”.
 - b. You will often hear “they have insurance”. Do they?
 - i. National Park Service, surrounding land owners, businesses and other impacted Arkansans should be named as a loss payee.
 1. This needs to be a very large pool for payout.
 - a. Cover cost of any cleanup and replenishment of wildlife species
 - b. Cover cost of diminished property values
 - c. Cover cost of any health claims that can be proven
 - i. If I get E ’coli and I can prove that the genetic strain came from their operation I should be able to recover punitive and actual damages.
 - d. Quick Arkansan friendly claim process.
 - i. The claims process they used in the BP Oil Spill would be a good model
 - ii. If a claimant files a claim and the case is proven in their favor the CAFO bond fund should be inherently liable for all legal fees from the claimant’s firm of choice.
3. Prove Conformance and demonstrate results frequently
 - a. Requirement to pay water quality testing by independent, government certified lab on a quarterly basis
 - i. Arkansas law makers have authorized over \$1Million in funds for just a year of testing. This should not be our expense.
 1. Add this to the cost of a hog and it is no longer a viable business model.

There are likely lobbyist and industry experts helping with the rule making. It would be naïve of me to think all of my recommendations will make it to any form of rulemaking. However, my company receives no corporate welfare. A commission that is charged with protecting the ultimate health of Arkansas citizens should not be in the business of handing out corporate welfare.

Please make the applicants and business owners pay the real cost of protecting our public asset and I am confident we all will be happy.

Respectfully,

Scott Stanley

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From: Goff, Patricia (Commission) [<mailto:GOFFPATTI@adeq.state.ar.us>]

Sent: Wednesday, May 01, 2013 11:02 AM

To: J. Scott Stanley

Cc: Goff, Patricia (Commission)

Subject: RE: Concern about permit issued to C&H to construct CAFO in Newton county

Mr. Stanley –

I have forwarded your email to the Commissioners.

Sincerely,

Patricia Goff

Commission Secretary

From: J. Scott Stanley [<mailto:scott.stanley@jaystanley.com>]

Sent: Thursday, April 25, 2013 1:19 PM

To: Commissioners

Cc: Marks, Teresa

Subject: RE: Concern about permit issued to C&H to construct CAFO in Newton county

Commission Members

I know ADEQ says they care. I know everyone thinks they have done their job. The law makers did not do their job to protect our state.

I know everyone is proud they have done their job.

There is a time to be proud and there is a time to admit maybe things are not as good as was thought and to do the things that are difficult but best for everyone else.

People respect those that can zoom out and selflessly look at the big picture and correct mistakes that have been made. I am not assigning blame. Your agency is the only one with power.

Reading the documents and complaints by others there seems to be plenty of error in the application process that would typically stop any other applicant.

Is there nothing that you can do to stop this CAFO in the Buffalo watershed?

Respectfully,

Scott Stanley

From: Goff, Patricia (Commission) [<mailto:GOFFPATTI@adeq.state.ar.us>]

Sent: Thursday, March 28, 2013 4:06 PM

To: J. Scott Stanley

Subject: RE: Concern about permit issued to C&H to construct CAFO in Newton county

Mr. Stanley –

Thank you for your comments. One of the many emails the Commission has received on this issue yours is one of the most clear, thoughtful and concise. I can assure you that we certainly care about all waters of the State including the Buffalo River. ADEQ and the Commission's job is to make sure that the laws enacted by the lawfully elected members of the state, federal legislatures, and the rules and regulations adopted by the Arkansas Pollution Control and Ecology Commission in furtherance of those laws, are enforced. In accordance with those laws there are no prohibitions that identify and exclude the Buffalo River watershed or any other watershed in the State from permit coverage.

In your email you stated requested that the Commission issue a moratorium on the permit that had been issued. But a moratorium will **not** stop the proposed farm. Moratoriums act as blocking mechanisms to prevent future permits from being issued – a moratorium cannot revoke an existing permit.

Under the CAFO general permit, any operator wishing to obtain coverage must demonstrate its ability to meet the requirements of the permit by submitting, among other things, a Notice of Intent (NOI) and a Nutrient Management Plan (NMP) that meets the requirements of 40 CFR 122 and 412 and that has been developed in accordance with the Natural Resource Conservation Service Practice Standard Code 590, including the 2010 Arkansas Phosphorus Index. The decision to grant coverage to an operator under a general permit is not a final permitting decision subject to appeal. However, CAFO general permits do offer an extra opportunity for public review that is not provided by other general permits. Under the CAFO general permit, if the Director makes a preliminary determination that the NOI meets the permitting requirements, the Director provides notice of that preliminary determination on ADEQ's website and invites the public or other state and federal agencies to review and provide comments on the NOI and nutrient management plan during the public comment period. In addition anyone wanting to be notified of permits being drafted by the ADEQ Water Division may sign up by providing a working email and clicking on the following link: [WP-PublicNotice-
subscribe@listserv.adeq.state.ar.us](mailto:WP-PublicNotice-subscribe@listserv.adeq.state.ar.us) or you may use our website to see permits that have been drafted by county: [http://www.adeq.state.ar.us/water/branch_permits/individual_permits/pn_permits/pnpermits
.asp](http://www.adeq.state.ar.us/water/branch_permits/individual_permits/pn_permits/pnpermits.asp).

A copy of the CAFO General Permit can be found on our web site at the following address:
http://www.adeg.state.ar.us/water/branch_permits/individual_permits/pdfs_forms/arg590000_draft.pdf I hope this helps to explain ADEQ's actions. Let me also assure you that the Commission will continue to monitor ADEQ so that this facility is operating in accordance with the terms of the permit.

Patricia Goff

Commission Secretary

From: J. Scott Stanley [<mailto:scott.stanley@jaystanley.com>]

Sent: Wednesday, March 27, 2013 3:47 PM

To: Commissioners

Cc: Marks, Teresa

Subject: Concern about permit issued to C&H to construct CAFO in Newton county

Commission Members

I am not an activist. I am a lifetime Arkansas, citizen of North Little Rock and business owner. The Buffalo River is very important in our family life. My wife and I own land adjacent to the National Park Service in Marion County. We spend our weekends and holidays at the Buffalo River. Many of our friends are farmers in the area of the Buffalo River water shed. I have spent hours visiting with people who had their land taken by the NPS.

The first time I became fully aware of CAFOs was when I heard the news about the CAFO permit in Newton County on NPR. I immediately began searching for successes and failures, reading both sides of the case, reading NPS objections and talking with my friends in the farming community.

I fall on both sides of the issue.

Being a fellow business owner I feel the applicant deserves the right to earn money with his 650+ acres. He deserves to put his money to work to feed his family. The last thing any of us want is more government regulation.

Being a proud Arkansas I am totally against any CAFO that has a nature defined, direct path (stream bed) to the Buffalo River.

1. I know isolation from flooding is said to be above the *last* 100 year flood predictions. There has been so much change in the weather that I have seen over the last 50 years I don't believe the legacy data should be fully trusted for future events.
2. In researching successes and failures in other states there are many instances that indicate a CAFO could be a significant risk to the Buffalo River. I have found no data saying they have a neutral or positive impact.
3. The NPS is against the construction. We pay and trust them as civil servants to look out for our public assets. I feel they should have full support in matters where they are most qualified.

4. I have seen what other honorable and reputable food manufacturers have done to our natural streams. They beg forgiveness, attempt a cleanup, pay a fine, apologize and return to normal operations. No amount of money or "I am sorry" will undo a spill into the Buffalo River.
5. The federal government took the land of those that once occupied what is now the park. They did this for the benefit of our nation. Those people sacrificed to allow us this national treasure. We as Arkansas should now do our part to be good stewards of the reserve. Our families and businesses can benefit from this preservation for generations. Risking the park for corporate profits cheapens all of the sacrifice and investment that has been made.
6. The CAFO will benefit one family, small group of families or corporation. It has the potential to damage a centerpiece of tourism and beauty for our state and nation.
 - a. There are attributes of a CAFO that are not conducive to tourism.
7. At the very least this issue deserves more study.
 - a. Time should be allowed for a full public disclosure and review.
 - b. All aspect of the permits should be 100% with all agencies in full agreement.
 - c. Additional bonding and insurance should be required to protect our national assets in the event any link in the protection chain fails. If there ever is an event the owner should be fully responsible with no possibility of public funding.

There are times that only the government can protect us from misguided and business profit based decisions. Please act in the public interest and issue a moratorium to prevent C&H from proceeding.

Respectfully,

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