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RE: Public Hearing Comments on Proposed Regulation 37; APC&E Commission Docket #18-001-R

March 27, 2018

Good afternoon, I am Anna Weeks, the Environmental Policy Associate for the Arkansas Public Policy Panel. Thank you for the opportunity to provide comments on proposed Regulation 37, Arkansas Nutrient Water Quality Trading Regulation.

If designed well water quality trading programs have the potential to be an effective tool to enable collaborative watershed-based solutions and lower the cost of progress towards restoring and maintaining our water quality. However, this tool is not effective without appropriate water quality standards such as numeric nutrient criteria, effective TMDLs and water quality based effluent limits in permits. Establishing and implementing such water quality standards would be protective of water quality and would lay the groundwork to begin creating an effective water quality- trading program. Creating a water quality-trading program without having such water quality standards in place is putting the cart before the horse.

We appreciate the efforts of the third parties in working towards a market -based solution with a goal of reducing costs and being protective of water resources. However, as indicated by the compilation of members of NANTRAG, this Draft Regulation is aimed to address a regional issue in Northwest Arkansas. At this time a regional pilot program would be more appropriate than a new regulation and would assist in informing a successful statewide program in the future.

The Draft Regulation 37 provides a starting point to establish a program but lacks sufficient details and safeguards to be protective of water quality, ensure real and verifiable pollutant reductions, and provide sufficient accountability for trades to occur and ensure long-term success. We will detail our concerns in this regard in our written comments.

Thank you.

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