

Barry Haas

NUTRIENT TRADING COMMENTS

March 27, 2018

On February 23 attorney Allan Gates met with a group of individuals who have been closely following the issue of nutrient trading and the third-party proposal by the Northwest Arkansas Nutrient Trading Research and Advisory Group. As you know, Mr. Gates has been pushing for nutrient trading on behalf of his clients.

My hope for that meeting was to get a clear and precise explanation of how nutrient trading would guarantee- GUARANTEE- fewer nutrients (pollutants) flowing into our rivers and streams. I came out of that meeting with my hope unmet.

We've all heard of the Hippocratic Oath historically taken by physicians that means in effect: "First, do no harm." I would submit that any nutrient trading system adopted must guarantee a reduction in nutrients overall- first, do no harm. Otherwise, why even adopt such a trading system that would serve only to further complicate already complicated pollution regulations? There must be certainty such a trading system cannot be "gamed" so as to result in an unanticipated overall increase in nutrients.

We know scores of other states have legislation or regulations that allow nutrient trading. And we also know by Mr. Gates own admission few if any of those 20 or so states have found a way to make nutrient trading work. That should be a strong warning sign as Arkansas considers a nutrient trading system.

Since the idea of nutrient trading was first broached here in Arkansas, I've shared examples with others how I think such a system could be abused, and result in more nutrient pollution rather than less. Individuals with scientific training and other professional skills far beyond mine have not offered convincing proof nutrient trading would result in a guaranteed reduction of nutrients overall.

Mr. Gates was quoted in the paper as having said: "The lack of specificity in the proposed regulation's language might encourage more participants." So a loosely worded regulation subject to multiple

interpretations would be a good thing? No, it would make ADEQ's job as regulators more difficult or even impossible if it was left up to lawyers and lawsuits to determine what was and was not allowed.

I would like to think a nutrient trading system could be created that would result in fewer nutrients. But to date I've not seen proof positive such a trading system can be created that will guarantee fewer total nutrients going into the state's waterbodies.

I ask that you not approve nutrient trading unless and until it can be shown unequivocally that such trading would result in fewer overall nutrients polluting our rivers and streams. "First, do no harm."

Thank you.



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