

EXHIBIT B

Contents

1. Petitioner's Responsive Summary
2. Petitioner's Responsive Statistics
3. ADEQ Responsive Summary

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION
IN THE MATTER OF THE OZARK SOCIETY AND
THE ARKANSAS PUBLIC POLICY PANEL **DOCKET NO. 14-002-R**

PETITIONERS' RESPONSIVE SUMMARY

INTRODUCTION

The public comment record for Docket No. 14-002-R contains 2,298 comments pertaining to changes to Arkansas Pollution Control and Ecology Commission Regulation 5, entitled Liquid Animal Waste Management Systems ("Reg. 5"). 2,069 (90.03%) comments favor this regulation change. 9 (.39%) comments are neutral or unclear as to their position regarding the regulation change. 220 (9.57%) comments oppose the rulemaking. Exhibit 1 to this summary contains the names of each commenter and a tally of the comments.

This rulemaking closely relates to Docket No. 14-003-R, which amends Arkansas Pollution Control and Ecology Commission Regulation 6, entitled Regulations for State Administration of the National Pollution Discharge Elimination System ("Reg. 6"). Both rulemakings prohibit swine operations housing either 750 swine weighing 55 pounds or more, or 3,000 or more swine weighing less than 55 pounds. The dual rulemakings are necessary to capture permit applications submitted pursuant to parallel state (Reg. 5) or federal (Reg. 6) permitting schemes.

The first two categories in the Response to Comments section below summarize general comments for and against the rulemaking. General comments are those which petitioners observed repeatedly. The next three groups address individual comments for, neutral, and against the rulemaking. Petitioners selected individual comments for response based on depth or uniqueness.

Petitioners conclude that the greater weight of the scientific evidence in the public comment record supports this rulemaking. Limiting the size of swine operations in the Buffalo River watershed protects water quality and the environment.

DEFINITIONS

The following definitions apply to the Response to Comments Below:

“ADEQ”-Arkansas Department of Environmental Quality.

“Commission”-The Arkansas Pollution Control and Ecology Commission.

“CAFO”-A Concentrated Animal Feeding Operation subject to, and permitted by, Reg. 6 and the National Pollution Discharge Elimination System.

“Confined Swine Operation”-A facility which is subject to Reg. 5, and which houses either 750 swine weighing 55 pounds or more, or 3,000 or more swine weighing less than 55 pounds.

“EPA”-Environmental Protection Agency.

“Petitioners”-The Ozark Society and the Arkansas Public Policy Panel.

“SRAP”-Socially Responsible Agriculture Project.

NOTES

Most commenters do not distinguish between “Confined Animal Operations” regulated by Reg. 5, and CAFOs subject to Reg. 6. For the purposes of this Responsive Summary, petitioners assume that a commenter is referring to both permitting schemes, unless specifically stated otherwise. ADEQ takes a similar approach in categorizing comments. The public comment record compiled by ADEQ for this rulemaking, Docket No. 14-002-R, and the related proposed changes to Reg. 6 found in Docket No. 14-003-R, are identical.

ADEQ received 31 comments which were either the second, third, or fourth comment received from that individual. Where a commenter submitted more than one comment, number corresponding to the order in which ADEQ received the comment distinguishes the multiple comments. For example, in the text below, Robert Cross’ first comment is denoted by a (1st) following his name, whereas a (3rd) follows references to his third comment.

RESPONSE TO COMMENTS

General Comments in Favor

1. *Karst topography is not suitable for large swine operations. Leakage from waste holding ponds into groundwater, and transport of pollution and contaminants via groundwater, through karst topography, pose threats to the Buffalo River's water quality and those who use it.*

Petitioners agree that Karst topography in the Buffalo River watershed allows rapid transport of land applied and lagoon-stored hog waste. Reports and comments received by ADEQ from Marti Olesen, Chuck Bitting, Robert Cross (2nd)/John Van Brahana, and SRAP state that Karst topography is not a suitable setting for the size of Confined Swine Operations this rulemaking prohibits.

2. *As our Nation's first National River, the Buffalo deserves heightened protection now, and for future generations.*

Petitioners concur. The Buffalo National River is an extraordinary resource which warrants heightened protection. Many commenters expressed their desire to maintain or improve the Buffalo's water quality. The proposed rule is consistent with, and furthers, the purpose of state and federal laws and regulations governing the Buffalo River, as Ross Noland (2nd) states.

3. *Water pollution and the smell of large swine operations harm tourism in the Buffalo River watershed. Tourism is an important economic driver for the residents of the Buffalo River Watershed, and the state of Arkansas.*

Many commenters note that the rulemaking protects the tourism economy, which accounts for approximately \$43 million in direct spending every year in the Buffalo River watershed. The Arkansas Department of Parks and Tourism submits a comment noting the economic impact of tourism in this state. Commenter Jim Metzger discusses the possible negative economic impact of reduced tourism in the Buffalo River watershed resulting from large swine operations.

4. *Air pollution, including ammonia, hydrogen sulfide, and nitrous oxide, are toxic to human health, especially the young. Methane is a potent greenhouse gas. Limiting the size and location of large swine operations protects public health and children.*

The comments of Ginny Masullo (2nd), Wes Norton (1st), Ross Noland (1st), John Whiteside, and SRAP each address the harmful air emissions produced by the land application and lagoon storage of large amounts of hog waste. Petitioners concur that the proposed rule will protect the air quality of the Buffalo River watershed from many of the harms noted in these comments.

5. *Harmful bacteria and parasites from large hog farms can be spread by air or water as a result of land applying manure.*

Petitioners agree that land application of millions of gallons of untreated manure from Confined Swine Operations is incompatible with contact-based recreation in the Buffalo River watershed. Several commenters discuss harm caused by water borne pathogens, including SRAP, Wes Norton (1st), John Whiteside, Robert Cross (1st). This rule protects residents and recreational users of the Buffalo River from harmful bacteria and parasites harbored in swine waste.

6. *Heavy rainfall and floods pose an unacceptable risk of a catastrophic failure of a swine waste storage lagoon. Events in places such as North Carolina which resulted in millions of gallons of manure flowing into the New River, and millions of resulting dead fish and closed coastal areas, should serve as a warning of the catastrophic impacts than can result from intensive swine farming and manure storage in lagoons.*

The proposed rule reduces the threat lagoon storage of hog waste poses to the Buffalo River. Anna Weeks' comment provides examples of lagoon storage failures. Such a failure would devastate water quality. Several commenters, including Mike Quearry, note that the Buffalo River watershed's steep tributaries are prone to flash floods which can destroy a waste storage lagoon.

7. *The Commission and/or the Department failed to do its job in permitting C & H Hog Farm.*

This rulemaking does not pertain to the permitting of C & H Hog Farm.

8. *The Department should order C & H Hog Farm to cease operations to prevent harm to the Buffalo River.*

This rulemaking does not pertain to the permitting of C & H Hog Farm

9. *ADEQ received 1708 comments from members of the National Parks Conservation Association which state the following:*

I am writing in support of the proposed changes to Regulation 5 and 6, submitted to the APC&EC commission on April 21, 2014 by The Ozark Society and the Arkansas Public Policy Panel. Specifically in Regulation 5, Liquid Animal Waste Management Systems, I support the watershed-specific regulation that prohibits the Director of ADEQ from issuing any new permits to Medium and Large confined animal operations (CAOs) or concentrated animal feeding operations (CAFOs) in the Buffalo National River Watershed. I also support the proposed changes to Regulation 6, Regulations for State Administration for the National Pollutant Discharge Elimination System (NPDES) noting that the Director shall not issue a permit of coverage pursuant to Regulation 6 for new medium or large CAO or CAFOs in the Buffalo River National Watershed. While I understand that these changes will not impact the current CAFO in the watershed, it is my hope that Governor Beebe, ADEQ, and Cargill will relocate the C&H facility and that it will no longer endanger the Buffalo National River Watershed. Thank you for the opportunity to comment on this rulemaking.

Petitioners highlight this comment due to the volume received. This rulemaking does not pertain to the permitting of C & H Hog Farm.

General Comments Against

10. *Regulations changes should be science based and reasonable. This change is a drastic measure without science to back it up.*

The record does not support this comment. The comments, records, and reports in the public comment record show that restricting the size of Confined Swine Operations protects water quality

and the environment in the Buffalo River watershed. The record is devoid of any science-based studies showing that lagoon storage and land application of millions of gallons of untreated hog waste from facilities the size of those prohibited by this rulemaking does not impact high quality streams above karst topography of the type found in the Buffalo River watershed.

11. *The regulations changes are driven by fear and emotion.*

Petitioners disagree. This comment is subjective in nature, and does not comport with the weight of the evidence and comments in the public comment record.

12. *The Commission should delay considering this rulemaking until the state-funded Big Creek Research team led by Dr. Sharpley concludes its work.*

Petitioners disagree. The weight of the evidence in the public comment record shows that the lagoon storage and land application of swine wastes from Confined Swine Operations negatively impacts water quality. No delay is needed to determine what one such operation's impact is. Furthermore, the purpose of this rule is not to alter operations at existing facilities, but rather to prohibit future facilities of a certain size to prevent cumulative impacts.

13. *Please consider the benefits and stewardship of Arkansas farmers before you react to misinformation in the public arena.*

Petitioners agree that Arkansas farmers are stewards of their land. However, this rulemaking prohibits a very narrow, defined form of farming in a watershed deserving of heightened protection from the land application and lagoon storage of hog waste from Confined Swine Operations. The commenters identify no alleged misinformation.

14. *I am concerned about the right to farm.*

This rulemaking is a narrow restriction on a specific, non-existing use of property. This regulation does not impact existing farms.

15. *Ditch third-party rulemaking as an option. If hard decisions need to be made, they need to be made by ADEQ, this Commission and/or the duly elected members of the Arkansas General Assembly.*

Ark. Code Ann. § 8-4-202, passed by the General Assembly, authorizes rulemaking by third-party petitioners. The Commission makes the final determination regarding whether or not to pass this rule. Petitioners are within the law in requesting this rulemaking.

16. *As a group that embraces science at the core of its everyday function - to protect the water-quality and environmental resources of the state of Arkansas - it is amazing to me that the commissioners of the PC&E are allowing a third-party rulemaking proposal that is devoid of science to be considered for approval. How can you turn your back on science at the time it is most needed?*

The greater weight of the scientific evidence submitted in support of this rulemaking shows that restrictions on the size of Confined Swine Operations protects water quality in the Buffalo River watershed.

17. *If the EPA, sent in to find something wrong on this hog farm, walks away saying there are no violations, then why would the PC&E Commission overreact to some group of environmental extremists who just know something terrible is happening on that farm? Why, I ask again?*

This rulemaking does not pertain to the permitting of C & H Hog Farm.

18. *The scrutiny and research afforded C & H Hog Farm is the most extensive in the nation.*

This rulemaking does not pertain to the permitting of C & H Hog Farm.

19. *The proponents of this Third party Rulemaking go on and on about the threat of the waste handling storage lagoons leaking and the catastrophic failure. In Arkansas's long history of swine production we have NEVER had a catastrophic failure. The mid 1990's studies done of hog farms in the Buffalo River watershed showed that these lagoons had minimal to no impact on groundwater. Not because of the formation underlying them as some have claimed, but because they did not leak. These farms were constructed in the 1970's. Today's farms are constructed using much more stringent engineering design standards. If the ongoing research on C and H shows current regulatory requirements is not adequate, then the regulations can be modified to include additional permit requirements. This is a scientific approach.*

Petitioners disagree with the commenters' characterization of the 1990's studies, though not attached or specifically referenced by these comments, petitioners assume commenters are referring to Formica, S.J., *Using Data, Communication & Education to Improve Swine Waste Management in the Buffalo River Watershed*, and Van Eps, M.A., *Survey of Arkansas Swine Liquid Waste Systems*, both of which are found in the record. Those studies showed that it is possible to reduce environmental impacts through improving waste management practices. However, it is unclear what, if any, bearing those studies have on the rulemaking at hand. The *Formica* report states the following regarding the farms in that study:

The number of sows at these facilities ranged from 250 to 500. During the course of the project, several watershed swine farmers converted to a farrow-to-wean operations in which 10 lb weaned pigs were shipped to a separate nursery operation. Subsequently, the number of sows increased to 300 to 550 per facility.

The Van Eps study states:

Farm #5 and Farm #7, are 300 sow-pig farrowing operations, housing approximately 300 sows, each weighing 147 kg. Every two weeks, 250 weaner pigs each weighing 4.5 kg, are removed from the farms.

This rule prohibits swine operations with 750 or more swine weighing 55 pounds or more, or facilities with 3000 or more swine weighing less than 55 pounds. It appears that the 1990s studies do not involve facilities of the size this rulemaking prohibits. Furthermore, this rulemaking does not pertain to C & H Hog Farm. Petitioners reference and incorporate the comment of Robert Cross (3rd), which addresses the contention that the 1990s studies demonstrate anything beyond the findings that proper land application practices can reduce nutrient loading.

20. *I do not understand the concern about a small number of hogs being permitted five miles from the river when an estimated one and a half million people visit the river each year. The Park service applies more nutrients on fields that are next to the river, than C & H Hog Farms does under a permit on land that is over five miles from the river.*

The Commission and ADEQ do not regulate the volume of recreational use in the Buffalo National River, nor do they manage the Park Service's hay fields. Furthermore, this rulemaking does not pertain to C & H Hog Farm.

Response to Individual Comments for the Rule

21. *Marti Olesen comments that the rule change is appropriate due to the karst topography present in the Buffalo River Watershed, and suggests that heightened protections are appropriate in Arkansas karst areas, as evidenced by Regulation 22's restrictions on landfills above karst topography.*

Petitioners agree that Regulation 22 is a relevant example of the Commission previously demonstrating the need to provide heightened protections in karst topography.

22. *Charles Bitting states that he has assisted with many dye tests in the Buffalo River Watershed, and that groundwater does not necessarily follow surface topography. He also states that he assisted ADEQ staff in surveying weirs for the swine CAFO study in the early 1990s, and*

observed dead zones downhill of waste lagoons. Mr. Bitting also notes that limestone and dolomite are exposed at the surface in more than half of the Buffalo's watershed, creating serious concerns for the placement of lagoon storage due to the rapid transport of water in karst topography.

Mr. Bitting's personal observations and experience are important first-hand accounts of the nature of karst topography, and the need for this rulemaking.

23. *James Metzger, an economist, states that economic analyses of large swine operations do not assess environmental costs that accompany large swine operations. He supports the rulemaking in order to protect the economic multiplier effect of tourism spending, and the integrity of the rural communities in the watershed.*

Petitioners agree that the negative externalities of large swine operations in the Buffalo River watershed outweigh any benefit to local communities.

24. *Ginny Masullo (2nd) submits the American Public Health Association's statement on CAFOs which requests that governmental agencies impose a moratorium on new CAFOs until additional scientific studies on health impacts are developed.*

Petitioners state that the rulemaking will protect public health in the Buffalo River watershed from the threats discussed in the American Public Health Association statement.

25. *Anna Weeks submits case studies from Iowa, Illinois, Minnesota, North Carolina, Oklahoma, Pennsylvania, and Wisconsin of severe environmental degradation caused by waste storage lagoon failures and overflows.*

Petitioners agree that the rulemaking reduces the risk of swine waste lagoon overflows in a manner consistent with Arkansas's water quality standards, and other protections.

26. *John Whiteside comments that the rule change will protect community health, especially children and the elderly, from particulate, gas, and vapors such as ammonia and hydrogen sulfide, which can cause severe illness in human populations.*

Petitioners agree that the rulemaking protects public and environmental health of both residents and visitors in the Buffalo River watershed.

27. *Robert Cross (1st) submits an in depth comment with supporting scientific documents demonstrating why the rulemaking will protect water quality in the Buffalo River watershed. His comments are summarized as follows:*

- a) *Hog waste contains components which degrade water quality, including phosphorus, nitrogen, pathogens, and hormones.*
- b) *Untreated swine waste has known paths to from farms to surface water, including leakage from storage lagoons, and land application.*
- c) *The likelihood of contamination is high from a CAFO in the Buffalo River watershed due to leakage through clay liner in ponds, spray fields, severe rainstorms, flooding, equipment failures, and drainage ditches causing discharges.*
- d) *The threats to water quality expand exponentially with the number of CAFOs in a watershed. Swine produce incredible amounts of waste, which under current rules, is land applied in an untreated form.*

Petitioners agree with each of Mr. Cross's comments in support of the rulemaking.

28. *Robert Cross (2nd) and Dr. John Van Brahana submit a detailed comment with supporting evidence to show that karst topography poses significant challenges for the lagoon storage and land application of swine wastes in the Buffalo River watershed. The theme of those comments is as follows:*

- a) *Karst topography is prevalent throughout the Buffalo River watershed. Commenter Brahana has extensively studied the topography of the Mt. Judea area, and found that it is typical of karst formations in that surface and groundwater interact easily, and groundwater flow is rapid, and dispersive.*
- b) *Swine CAFOs present particular problems in karst topography such as pathogen transport and nutrient transport.*
- c) *Brahana has conducted dye tests in the Mt. Judea valley, and found interconnections between wells, springs, and groundwater, and the Buffalo River, in the absence of attenuation of waste components. This leads to a conclusion that the risk to the Buffalo from large swine operations is extremely high.*
- d) *Cross and Brahana also note that the Pindall, Arkansas landfill study near the Buffalo River in the late 1980s also showed that rapid transport of water, and potentially pollutants, from surface to ground is present near the Buffalo, as characterized by its karst topography.*

Petitioners agree that the karst topography of the Buffalo River watershed is not suitable for Confined Swine Operations. The rulemaking will restrict the size, and thus the amount of waste produced, by Confined Swine Operations in the Buffalo River watershed.

29. *Robert Cross (3rd) specifically addresses oral comments made on June 17th that certain studies show that modern clay waste lagoon liners do not leak. Mr. Cross takes issue with this assertion, noting that the 1990s studies relied on by the commenter contained no data regarding pond leakage, evaporation, or rainfall.*

Petitioners agree with the comments of Robert Cross (3rd).

30. *Comment of Ross Noland (1st), and attached studies and reports, support the rule change to limit the size and location of large swine operations to protect public and environmental health, including drinking water supplies, air quality, and preventing public exposure to pathogens, in the Buffalo River watershed.*

Petitioners agree that limiting the size of Confined Swine Operations in the Buffalo River watershed protects public and environmental health.

31. *Ross Noland (2nd) states that the rulemaking is within the Commission's powers, and is consistent with Arkansas's water quality standards, including water quality criteria, antidegradation policy, and the Buffalo's designation as an Extraordinary Resource Water. The comment also provides examples of other states which have regulated CAFOs above karst topography, and reviews federal management designations within the Buffalo River Watershed.*

Petitioners agree with the comments of Ross Noland (2nd). The Buffalo National River is deserving of the highest protection under both state and federal law.

32. *SRAP submitted an extensive comment, with supporting documentation, covering several unique topics including:*

- a) *ADEQ has the authority and duty to prevent water and air pollution.*
- b) *CAFOs threaten the environment and public health by generating a staggering amount of manure which contains potential toxins. Contaminants are discharged, leak, or run off into surface and groundwaters, resulting in pollutants in water that threaten public health.*
- c) *Streams in the BNR Watershed are listed as impaired waterbodies.*
- d) *CAFO air emissions threaten public health.*

Petitioners appreciate and agree with the well-researched and documented SRAP comments.

Response to Individual Neutral Comments

33. *ADEQ suggests adding a definition for “Animal Feeding Operation” and “Concentrated Animal Feeding Operation” to Regulation 6.*

This comment does not impact petitioners’ Reg. 5 changes. Petitioners do not believe the suggested changes to Regulation 6 are necessary because Regulation 6 incorporates the federal definitions of “Animal Feeding Operation” and “Concentrated Animal Feeding Operation” by reference. Reg. 6.103(A) adopts the definitions found in 40 C.F.R. § 122.2, which states that 40 C.F.R. § 122.23 defines “Animal Feeding Operation” and “Concentrated Animal Feeding Operation.” Reg. 6.104(A)(3) incorporates 40 C.F.R. § 122.23 verbatim. 40 C.F.R. § 122.23 contains the same definitions of “Animal Feeding Operation” and “Concentrated Animal Feeding Operation” now suggested by ADEQ. It does not appear to be ADEQ’s practice to both incorporate terms and then define those terms. To do so would be repetitive.

34. *Forest Boles states that he cannot support or oppose the rulemaking because he does not know the scientific basis for the moratorium on swine operations of 750 or more hogs which weigh greater than 55 pounds or 3,000 or more swine weighing less than 55 pounds.*

The rulemaking and Docket No. 14-003-R propose a prohibition on further swine operations in the Buffalo River Watershed which house 750 or more swine weighing 55 pounds or more, or 3,000 or more swine weighing less than 55 pounds. The petitioners drew these numbers from the definitions of medium and large swine concentrated animal feeding operations found in federal regulations. 40 C.F.R. § 122.23(b)(4)(iv-v) and (b)(6)(i)(D-E). The Commission has adopted the same definition in past rulemakings. *See* Reg. 6.103(A)(adopting federal definitions) and Reg. 5.201.

The history of the medium and large swine thresholds begins with EPA's 1973 animal confinement regulations for feedlots, which imposed regulations on facilities with 2,500 or more swine over 55 pounds, for the stated reason that this threshold "will cover the facilities which present the greatest potential for pollution control while limiting the number of applications to a manageable quantity." 38 Fed. Reg. 18,000. 1976 regulation changes retained the 1973 numbers because they were "justified by studies and data." 41 Fed. Reg. 11,458. The 1976 regulations also introduced regulation of medium CAFOs with 750 or more swine weighing over 55 pounds. *Id.* at 11,460.

The definitions of medium and large CAFOs remained static until 2003 changes to the CAFO regulations introduced regulation of swine under 55 pounds. EPA stated that a new definition was necessary due to changes in the industry, because "immature swine were not a concern in the past because they were usually a part of operations that included mature animals...in recent years, these swine operations have become increasingly specialized, increasing the number of large, separate nurseries where only immature swine are raised." 68 Fed. Reg. 7,176, 7,192. EPA supported its regulatory CAFO thresholds with a Technical Development Document which analyzed manure production.

This rulemaking restricts Confined Swine Operations of the same size as those qualifying as medium or large swine CAFOs under federal regulations and Reg. 6. Utilizing known definitions and thresholds across both the state (Reg. 5) and federal (Reg. 6) permitting schemes for swine operations in Arkansas promotes consistency and certainty. The rulemakings do not target small farmers which do not house swine in numbers which meet the medium or large swine CAFO thresholds. Over forty years of regulatory implementation, definition, research, and rulemaking support the threshold numbers.

Response to Individual Comments Against the Rule

35. *Susan Anglin (3rd) suggests that a multiyear study to evaluate impacts of recreation on the Buffalo River, and a potential lottery permitting system for recreational users, is appropriate to protect the Buffalo River.*

The suggestions Ms. Anglin offers are beyond the management powers of ADEQ and the Commission. The National Park Service is developing a new General Management Plan for the Buffalo National River which will address a myriad of matters relating to the Buffalo River, including recreational use and protection of water quality.

36. *Warren Campbell, Newton County Judge, opposes the regulation changes because he believes that current regulations on farms are sufficient, and the Newton County economy is under severe strain.*

The rule change will not place additional regulations on existing farms. It only prohibits future Confined Swine Operations. Furthermore, the rule change will protect the tourism economy of Newton County.

37. *Commenter Jason Henson set forth multiple questions pertaining to many subjects. The following is a summary of those points which are not addressed by the responses to comments above:*

- a) *Does this Commission support use of the Arkansas Phosphorus Index?*
- b) *What scientific data did the Commission use to initiate rulemaking to prohibit only swine CAFOs, and not other forms of CAFOs? Why is the Commission targeting medium and large swine CAFOs which are already heavily regulated?*
- c) *Does this rulemaking impact CAFOs which utilize waste management practices other than liquid animal waste management?*

- d) *What alternatives has the Commission considered?*
- e) *When did it become okay in Arkansas for environmental extremists or a state agency to dictate to farmers what types of animals they may raise, and the size of their operation? When did it become okay in Arkansas for rules to be made simply because environmental extremists and urban elitists think they deserve the right to make this area their personal playground and dictate to the rest of us who live here what we can and cannot do?*

Mr. Henson's questions are directed at the Commission, but raise several issues which petitioners can respond to. First, in regards to the actions requested of the Commission, including review of the Arkansas Phosphorus index, relevant CAFO data, and alternatives, petitioners state that the public comment period and subsequent Commission review are the appropriate format for the Commission to consider and review such topics. Though the record and individual comment are devoid of information regarding the Arkansas Phosphorus Index, petitioners acknowledge that it is a tool for informing decisions made in nutrient management plans. The index does not address concerns pertaining pathogens, lagoon spills, floods, and the unique challenges posed by karst topography. The public comment record is populated with information demonstrating that the greater weight of the evidence shows that a prohibition on Confined Swine Operations in the Buffalo River watershed protects water quality and the environment. The Commission may consider this data and any alternatives found in the record before making a final decision.

Second, this rulemaking prohibits Confined Swine Operations, and not other forms of animal agriculture, because the greater weight of the evidence shows that such operations pose the greatest threat to the Buffalo River's water quality. Petitioners do not seek to prohibit, for example, a horse operation of 150 animals which qualifies as a Reg. 5 Confined Animal Operation or a CAFO, because there is no evidence that such operations now pose a threat to the Buffalo River's

water quality. Petitioner's rulemaking is purposefully narrow and defined in order to prohibit only those operations which pose the greatest threat. The record shows that Confined Swine Operations pose the greatest threat.

Third, petitioners disagree with Mr. Henson's characterization of this rulemaking as extreme or unheard of within existing regulatory framework. Government bodies regularly their ability to regulate land use in order to comply with laws such as, in this case, Arkansas's water quality standards, the Clean Water Act, and the Arkansas Water and Air Pollution Control Act. This rulemaking properly invokes the Commission's powers.

The remainder of this comments pertains to matters which are not before the Commission in this rulemaking, including management of Park Service properties, inspection of the C & H Hog Farm, and Commission regulation of other watersheds. This rulemaking pertains only to Confined Swine Operations in the Buffalo River watershed.

38. *Jerry Masterson of the Arkansas Pork Producers Association states that C & H Hog Farm followed the law in obtaining its permit, the Commission should base its decision on science, not FEAR-False Evidence Appearing Real, and that the third party rulemakings are an infringement to a farmer's right to farm. Mr. Masterson's comment contains several other points which are addressed above in the general comments.*

Petitioners disagree with Mr. Masterson assertions. Mr. Masterson produces no scientific evidence in support of his comment. The greater weight of the scientific evidence submitted in this public comment period shows that prohibiting large swine operations in the Buffalo River Watershed will protect water quality and public health. This rulemaking is not an infringement on the right to farm, as it is narrowly focused and defined to prohibit only future facilities of a certain type. The Commission is well within its powers of regulating permitting.

39. Commenter Evan Teague provided a comment with attachments in support of the following points in opposition to the rulemaking:

- a) *Participants in a 1995-2000 study of swine facilities in in the Buffalo River watershed demonstrated an ability to reduce nutrient loading by as much as 90% with best management practices. Participants in this study received EPA's Environmental Excellence Award of 1998. The farms studied were built in the 1970s. Today's farms, and management plans, are much improved.*
- b) *C & H Hog Farm is integral to the discussion of this rulemaking, especially in light of the fact the Governor has funded the Big Creek Research Team to study surface and groundwater near C & H Hog Farm. This rulemaking will preempt that work. Prohibitions based on potential or threats is not a scientific approach.*
- c) *EPA inspected C & H Hog Farm in April of 2014, and found no violations. Onsite soil samples indicated that soil phosphorus levels below samples used to draft the facility's nutrient management plan. Why would petitioners limit C & H's ability to expand?*
- d) *National Park Service Agriculture Special Use Permits allows land application of fertilizer in many fields near the Buffalo River. The very fact that C & H Hog Farm has located near Mt. Judea and landowners are now applying hog manure (organic liquid fertilizer) instead of commercial fertilizer or poultry litter may actually improve the already high, excellent, even pristine, water quality in Big Creek.*

Petitioners have addressed the 1990's studies of hog farms in the Buffalo River watershed above, but again state here that such studies do not appear to review facilities of the size studied in those reports, and again reference the comment of Robert Cross (3rd). This rulemaking does not pertain to the C & H Hog Farm, nor does one future study of the C & H Hog Farm counter the

greater weight of the evidence submitted during the record of this rulemaking which demonstrates that limiting the size of Confined Swine Operations protects water quality in the Buffalo River watershed. Though one individual farm may be in compliance at this time, such compliance does not eliminate the risk of a catastrophic, waterborne pathogen contamination, air emissions, or other cumulative negative environmental impacts of additional Confined Swine Operations this rulemaking prohibits. Petitioners specifically reject any contention that the presence of Confined Swine Operations, and the resulting necessity of land applying millions of gallons of untreated swine waste, can somehow improve water quality. Such a contention is wholly unsupported by the record which shows that the impacts of large swine operations extend beyond matters pertaining to nutrient loading.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I, Ross Noland, hereby certify that a copy of the foregoing has been sent via electronic mail to the following parties of record, this 15th day of October 2014.

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Ross Noland

For	Neutral/ Unclear	Against	Commenter	Repeat
	1		<u>Comments of the Arkansas Department of Environmental Quality (ADEQ)</u>	
1			<u>04/30/2014 - Comments of Trella Laughlin</u>	
1			<u>05/07/2014 - Comments of Carolyn Knas</u>	
1			<u>05/07/2014 - Comments of Wen Norton</u>	
1			<u>05/09/2014 - Comments of Joyce Murray</u>	
1			<u>05/11/2014 - Comments of Demara Titzer</u>	
1			<u>05/11/2014 - Comments of Larry Settle</u>	
1			<u>05/12/2014 - Comments of Dana Steward</u>	
1			<u>05/12/2014 - Comments of Ruth Shepherd</u>	
1			<u>05/12/2014 - Comments of Steve Blumreich</u>	
1			<u>05/13/2014 - Comments of Jose D Arteaga</u>	
1			<u>05/13/2014 - Comments of Nancy Garner</u>	
1			<u>05/14/2014 - Comments of Cindy Saul</u>	
1			<u>05/14/2014 - Comments of Duane Woltjen</u>	
1			<u>05/14/2014 - Comments of Edd French</u>	
1			<u>05/14/2014 - Comments of Glenn Jones</u>	
1			<u>05/14/2014 - Comments of Jack Pate</u>	
1			<u>05/14/2014 - Comments of Jim Westbrook</u>	
1			<u>05/14/2014 - Comments of Joe Golden</u>	
1			<u>05/14/2014 - Comments of John Joseph Ray</u>	
1			<u>05/14/2014 - Comments of Justin Taylor</u>	
1			<u>05/14/2014 - Comments of Karen Seller</u>	
1			<u>05/14/2014 - Comments of Lin Wellford</u>	
1			<u>05/14/2014 - Comments of Lynn Nabb</u>	
1			<u>05/14/2014 - Comments of Phillip B. Lorenz</u>	
1			<u>05/14/2014 - Comments of Steve Singleton</u>	
1			<u>05/14/2014 - Comments of Trella Laughlin -- 2</u>	1
1			<u>05/17/2014 - Comments of Joe Massey</u>	
1			<u>05/17/2014 - Comments of Nan Johnson</u>	
1			<u>05/20/2014 - Comments of David Kuhne</u>	
1			<u>05/20/2014 - Comments of John R. Outler</u>	
1			<u>05/20/2014 - Comments of Lynn Risser</u>	
1			<u>05/22/2014 - Comments of Adam Schaffer</u>	
1			<u>05/23/2014 - Comments of Annee Littell</u>	
1			<u>05/27/2014 - Comments of Susan Griggs</u>	
1			<u>05/28/2014 - Comments of Bettie Lu Lancaster</u>	
1			<u>05/28/2014 - Comments of Don Castleberry</u>	
1			<u>05/28/2014 - Comments of Marie Mainard O'Connell</u>	
1			<u>05/29/2014 - Comments of Alex Handfinger</u>	
1			<u>05/29/2014 - Comments of Arkansas Audubon Society</u>	
1			<u>05/29/2014 - Comments of Brittany Paul</u>	
1			<u>05/29/2014 - Comments of Pat McKeown</u>	
1			<u>05/29/2014 - Comments of Patty McCook</u>	
1			<u>05/29/2014 - Comments of Patty McCook -- 2</u>	1
1			<u>05/30/2014 - Comments of Amy Hudson, MD and Steve Hudson, MD</u>	
1			<u>05/31/2014 - Comments of Kirk D. Wasson</u>	
1	1		<u>06/01/2014 - Comments of Jeff Benefield</u>	
1			<u>06/02/2014 - Comments of Camille Carpenter</u>	
1			<u>06/02/2014 - Comments of Lucas D. Parsch</u>	

For	Neutral/ Unclear	Against	Commenter	Repeat
1			06/02/2014 - Comments of Lynn Parker	
1			06/03/2014 - Comments of Lea Charlton	
1			06/03/2014 - Comments of Sierra Club	
1			06/09/2014 - Comments of Cindy Saul -- 2	1
1			06/09/2014 - Comments of Darla Newman	
1			06/09/2014 - Comments of Linde Doede	
1			06/09/2014 - Comments of Ron Wright	
1			06/09/2014 - Comments of Scott Parson	
1			06/10/2014 - Comments of Elizabeth Hale	
1			06/10/2014 - Comments of Judy Murray	
1708			06/10/2014 - Comments of Members of the National Parks Conservation Association	
1			06/10/2014 - Comments of Pamela E. Stewart	
1			06/10/2014 - Comments of Todd Dahlin	
1			06/10/2014 - Comments of Trella Laughlin -- 3	1
		1	06/11/2014 - Comments of Ken Billot	
		1	06/11/2014 - Comments of Michael Thompson	
		1	06/11/2014 - Comments of Michelle Pass	
	1		06/11/2014 - Comments of Nancy Thompson	
1			06/11/2014 - Comments of Patti Kent	
		1	06/11/2014 - Comments of Susan Anglin	
		1	06/11/2014 - Comments of Teresa Smith	
		1	06/11/2014 - Comments of Teresa Smith -- 2	1
		1	06/11/2014 - Comments of Thom Beasley	
		1	06/11/2014 - Comments of Tim Sampolesi	
		1	06/12/2014 - Comments of Anthony Clark	
		1	06/12/2014 - Comments of Cody Anglin	
		1	06/12/2014 - Comments of Donald A. (Tony) Moss	
		1	06/12/2014 - Comments of Jerry Thomas	
		1	06/12/2014 - Comments of Kevin Serrano	
		1	06/12/2014 - Comments of Kim A. Hogan	
		1	06/12/2014 - Comments of Phillip Wyatt	
		1	06/12/2014 - Comments of Rusty Pendergraft	
		1	06/12/2014 - Comments of Susan Anglin -- 2	1
		1	06/13/2014 - Comments of Farm Credit of Western Arkansas	
1			06/13/2014 - Comments of Judith Duguid	
1			06/13/2014 - Comments of Linda Lord	
1			06/13/2014 - Comments of Pam Fowler	
		1	06/13/2014 - Comments of Roger Thompson	
1			06/14/2014 - Comments of Betty Lu Lancaster -- 2	1
1			06/14/2014 - Comments of Mike Quearry	
		1	06/15/2014 - Comments of Dennis Philpot	
		1	06/15/2014 - Comments of Kristy Vines	
1			06/15/2014 - Comments of Pamela Hill	
1			06/15/2014 - Comments of Teresa Turk	
1			06/16/2014 - Comments of Becky Gilette	
1			06/16/2014 - Comments of Cathy Ross	
1			06/16/2014 - Comments of Dane Schumacher	
1			06/16/2014 - Comments of Dian Williams	
1			06/16/2014 - Comments of Diane Mitchell	

For	Neutral/ Unclear	Against	Commenter	Repeat
1			<u>06/16/2014 - Comments of Ellen Mitchell</u>	
1			<u>06/16/2014 - Comments of Faith Pettit-Shah</u>	
1			<u>06/16/2014 - Comments of Jim Westbrook -- 2</u>	1
1			<u>06/16/2014 - Comments of Kathy Downs</u>	
1			<u>06/16/2014 - Comments of Lady Kunkle</u>	
1			<u>06/16/2014 - Comments of Lowell Collins</u>	
1			<u>06/16/2014 - Comments of Luke Coop</u>	
1			<u>06/16/2014 - Comments of Marty and Larry Olesen</u>	
1		1	<u>06/16/2014 - Comments of Mike Freeze</u>	
1			<u>06/16/2014 - Comments of Pat McKeown -- 2</u>	1
1		1	<u>06/16/2014 - Comments of Phillip Wyatt -- 2</u>	1
1			<u>06/16/2014 - Comments of Rehea Youde</u>	
1		1	<u>06/16/2014 - Comments of Steven D. Hignight</u>	
1		1	<u>06/16/2014 - Comments of Trella Laughlin -- 4</u>	1
1		1	<u>06/17/2014 - Comments of Alice Andrews</u>	
1			<u>06/17/2014 - Comments of Andy Loyd</u>	
1		1	<u>06/17/2014 - Comments of Brandon Robertson</u>	
1		1	<u>06/17/2014 - Comments of Brian McCarley</u>	
1		1	<u>06/17/2014 - Comments of Brian McCarley -- 2</u>	1
1		1	<u>06/17/2014 - Comments of Burt Wilson</u>	
1			<u>06/17/2014 - Comments of Carol Christoffel</u>	
1			<u>06/17/2014 - Comments of Cathy Bayne</u>	
1		1	<u>06/17/2014 - Comments of Chris Rae</u>	
1		1	<u>06/17/2014 - Comments of Dana Butler</u>	
1		1	<u>06/17/2014 - Comments of David Barnhouse</u>	
1			<u>06/17/2014 - Comments of Debra Odonnel</u>	
1			<u>06/17/2014 - Comments of Ellen Compton</u>	
1			<u>06/17/2014 - Comments of Erin Rains</u>	
1			<u>06/17/2014 - Comments of Frances Alexander</u>	
1			<u>06/17/2014 - Comments of Friends of the North Fork and White Rivers</u>	
1		1	<u>06/17/2014 - Comments of Gene Pharr</u>	
1			<u>06/17/2014 - Comments of George Carlson</u>	
1			<u>06/17/2014 - Comments of Gina Booth</u>	
1		1	<u>06/17/2014 - Comments of Holly Yeager</u>	
1			<u>06/17/2014 - Comments of Jim Norwood</u>	
1			<u>06/17/2014 - Comments of Joan Reynolds</u>	
1		1	<u>06/17/2014 - Comments of Joe Niflpe</u>	
1			<u>06/17/2014 - Comments of Johnnie Chamberlin</u>	
1			<u>06/17/2014 - Comments of Judith Ann Griffith</u>	
1		1	<u>06/17/2014 - Comments of Kathy Dulcett</u>	
1			<u>06/17/2014 - Comments of Kimberly Clark</u>	
1		1	<u>06/17/2014 - Comments of Laura McDaniel</u>	
1		1	<u>06/17/2014 - Comments of Libbie Dougan</u>	
1		1	<u>06/17/2014 - Comments of Lindelle Fraser</u>	
1		1	<u>06/17/2014 - Comments of Lindy Phillips</u>	
1			<u>06/17/2014 - Comments of Martha Peine</u>	
1		1	<u>06/17/2014 - Comments of Mitchell McCutchen</u>	
1		1	<u>06/17/2014 - Comments of Nicole Hertz</u>	
1		1	<u>06/17/2014 - Comments of Patrick E. Pollack</u>	
1			<u>06/17/2014 - Comments of Paul Kimble</u>	
1		1	<u>06/17/2014 - Comments of Ralph Pinkerton</u>	

For	Neutral/ Unclear	Against	Commenter	Repeat
		1	06/17/2014 - Comments of Raven Ramey	
		1	06/17/2014 - Comments of S. Donnelly	
1			06/17/2014 - Comments of Sam Cooke	
	1		06/17/2014 - Comments of Sandra Jackson	
		1	06/17/2014 - Comments of Sandy McCarley	
		1	06/17/2014 - Comments of Sandy McCarley -- 2	1
		1	06/17/2014 - Comments of Shirley Henderson	
		1	06/17/2014 - Comments of Stanley Taylor	
		1	06/17/2014 - Comments of Stephanie McGregor	
		1	06/17/2014 - Comments of Susan Anglin -- 3	1
	1		06/17/2014 - Comments of Susan Parker	
1			06/17/2014 - Comments of Tim Eubanks	
		1	06/17/2014 - Comments of Virginia Hulsey	
1			06/18/2014 - Comments of Daryl Boles	
1			06/18/2014 - Comments of Diane Mitchell -- 2	1
		1	06/18/2014 - Comments of Elliott Golman	
		1	06/18/2014 - Comments of Ethan Gammill	
1			06/18/2014 - Comments of Jack Stewart	
	1		06/18/2014 - Comments of Justin Teague	
1			06/18/2014 - Comments of Kendall Kilgore	
1			06/18/2014 - Comments of Leigh Barham	
		1	06/18/2014 - Comments of Leo C. Sutterfield	
1			06/18/2014 - Comments of Randi M. Romo	
		1	06/18/2014 - Comments of Randy Barker	
		1	06/18/2014 - Comments of Roberta Golman	
		1	06/18/2014 - Comments of Roger Pitchford	
1			06/18/2014 - Comments of Ruth Mitchell	
1			06/18/2014 - Comments of Sandra Crane	
1			06/18/2014 - Comments of Thomas Maly	
		1	06/18/2014 - Comments of Wanda Calloway	
		1	06/19/2014 - Comments of John Parker	
		1	06/19/2014 - Comments of John Stipe	
1			06/19/2014 - Comments of Judith Levine	
1			06/19/2014 - Comments of Pauline Sturch	
1			06/19/2014 - Comments of Richard Phillips	
1			06/19/2014 - Comments of Sheila Richards	
1			06/19/2014 - Comments of Shelly Buonaiuto	
1			06/20/2014 - Comments of Barbara Jarvis	
		1	06/20/2014 - Comments of Don Johnson	
	1		06/20/2014 - Comments of Forest Boles	
1			06/20/2014 - Comments of Frances Fitch	
		1	06/20/2014 - Comments of Kenneth Hulsey	
1			06/20/2014 - Comments of John and Jody Sanders	
		1	06/20/2014 - Comments of John Philpot	
1			06/20/2014 - Comments of Maurine Moen	
		1	06/20/2014 - Comments of Robb Hulsey	
		1	06/20/2014 - Comments of Roger Pitchford -- 2	1
		1	06/20/2014 - Comments of Steve Stephan	
		1	06/20/2014 - Comments of Steven D. Hignight -- 2	1
		1	06/20/2014 - Comments of Thad Hinkle	
1			06/21/2014 - Comments of Ginger Roell	

For	Neutral/ Unclear	Against	Commenter	Repeat
1			06/21/2014 - Comments of Caroline Stevenson	
1			06/21/2014 - Comments of Michael Gaudio	
1			06/21/2014 - Comments of Nancy Young	
1			06/21/2014 - Comments of Yvonne Armstrong	
1			06/21/2014 - Comments of Rocky Vanucci	
1			06/22/2014 - Comments of Jack Kroeck	
1			06/22/2014 - Comments of Kimberly Brasher	
1			06/22/2014 - Comments of Sue Miller	
		1	06/23/2014 - Comments of Andy Brown	
1			06/23/2014 - Comments of Clayton Andrews	
1			06/23/2014 - Comments of D Hal Capps	
1			06/23/2014 - Comments of Donald Dombek	
1			06/23/2014 - Comments of Ginny Masullo	
1			06/23/2014 - Comments of Jennifer Steck	
1			06/23/2014 - Comments of Jody Thom	
			06/23/2014 - Comments of Joe Rath	
1			06/23/2014 - Comments of Kristine and Patrick Hall	
1			06/23/2014 - Comments of Robin Roggio	
		1	06/23/2014 - Comments of Ross Lockhart	
1			06/23/2014 - Comments of Toby Von Rembow	
		1	06/23/2014 - Comments of Tommy Sorrells	
		1	06/23/2014 - Comments of B. Scott Ramsey	
		1	06/23/2014 - Comments of Bill Shannon	
		1	06/23/2014 - Comments of Billie Collins	
1			06/23/2014 - Comments of Carmen Quinn	
1			06/23/2014 - Comments of Carol Florida	
		1	06/23/2014 - Comments of Dennis Geisler	
1			06/23/2014 - Comments of Derrel Holden	
1			06/23/2014 - Comments of Dorothy Bailey	
1			06/23/2014 - Comments of Evelyn Mills	
		1	06/23/2014 - Comments of Gary Rowlands	
		1	06/23/2014 - Comments of J.T. Davis III	
		1	06/23/2014 - Comments of James King	
1			06/23/2014 - Comments of John Casey	
		1	06/23/2014 - Comments of Kenneth Hartley	
			06/23/2014 - Comments of Larkin and Pam Floyd	
1			06/23/2014 - Comments of Leroy Lastovica	
		1	06/23/2014 - Comments of Mark Keaton	
1			06/23/2014 - Comments of Nancy Deisch	
		1	06/23/2014 - Comments of Patsy Hartley	
1			06/23/2014 - Comments of Peter Deisch	
1			06/23/2014 - Comments of Phillip Deisch	
		1	06/23/2014 - Comments of Ronney Fields	
			06/23/2014 - Comments of Russell and Mary Ann Corker	
1			06/23/2014 - Comments of Victoria McClendon	
1			06/23/2014 - Comments of Zella Holden	
1			06/23/2014 - Comments of Eddie Vollman	
1			06/23/2014 - Comments of Frank Barton	
		1	06/24/2014 - Comments of Dan Wright	
1			06/24/2014 - Comments of David Bryson	

For	Neutral/ Unclear	Against	Commenter	Repeat
1			06/24/2014 - Comments of Jeffrey Green	
1			06/24/2014 - Comments of Marti Olesen	
		1	06/24/2014 - Comments of Andrea Wicker	
		1	06/24/2014 - Comments of Darrell Killian	
		1	06/24/2014 - Comments of Gene Parker	
		1	06/24/2014 - Comments of James Simpson	
1			06/24/2014 - Comments of Jeff Borg	
		1	06/24/2014 - Comments of Jonathan Morrow	
		1	06/24/2014 - Comments of Judy Castleberry	
		1	06/24/2014 - Comments of Lloyd Reynolds	
		1	06/24/2014 - Comments of Melvin Daniel	
		1	06/24/2014 - Comments of Norman Reynolds	
1			06/24/2014 - Comments of Shawn Porter	
1			06/24/2014 - Comments of Cole Rath	
1			06/24/2014 - Comments of Ramona Block	
1			06/25/2014 - Comments of Dave Smith	
1			06/25/2014 - Comments of Debbie Spencer	
1			06/25/2014 - Comments of Essie Mae Cableton	
1			06/25/2014 - Comments of Evelyn Washington	
1			06/25/2014 - Comments of Francisco Perez	
1			06/25/2014 - Comments of Frannie Fields	
1			06/25/2014 - Comments of Gladys Tiffany	
1			06/25/2014 - Comments of Humberto Marquez	
1			06/25/2014 - Comments of James Mann	
1			06/25/2014 - Comments of Jean Sixbey	
1			06/25/2014 - Comments of Juan Mendez	
1			06/25/2014 - Comments of Judy Gibson	
1			06/25/2014 - Comments of Lavita Wilks-Hale	
1			06/25/2014 - Comments of Lisa Bagley	
1			06/25/2014 - Comments of Margarita Solorzano	
1			06/25/2014 - Comments of Marisol Elliott	
1			06/25/2014 - Comments of Michael Buonaiuto	
1			06/25/2014 - Comments of Michel Rangel	
1			06/25/2014 - Comments of Nancy Eddy	
1			06/25/2014 - Comments of Newton A. Lane II	
1			06/25/2014 - Comments of Noelia Flores	
1			06/25/2014 - Comments of Oliver Thomas	
1			06/25/2014 - Comments of Pamela Holley	
1			06/25/2014 - Comments of Patty Barker	
1			06/25/2014 - Comments of Patty Crail	
1			06/25/2014 - Comments of Regina Sullivan	
1			06/25/2014 - Comments of Richard Hutchinson	
1			06/25/2014 - Comments of Robert McAfee	
1			06/25/2014 - Comments of Ruth Spencer	
1			06/25/2014 - Comments of Samantha Scheiman	
1			06/25/2014 - Comments of Sandra Porter	
1			06/25/2014 - Comments of Sarah Dillard	
1			06/25/2014 - Comments of Scharmél Rousse!	
1			06/25/2014 - Comments of Shelly Buonaiuto	
1			06/25/2014 - Comments of Sonya Dillard	
1			06/25/2014 - Comments of Susana McDaniel	
1			06/25/2014 - Comments of Van Page	
1			06/25/2014 - Comments of Violet Gresham	

For	Neutral/ Unclear	Against	Commenter	Repeat
1			<u>06/25/2014 - Comments of William Saunders</u>	
14			<u>06/25/2014 - Comments with no signature or illegible signature</u>	
1			<u>06/25/2014 - Comments of Adam Lansky</u>	
1			<u>06/25/2014 - Comments of Anna Lansky</u>	
1			<u>06/25/2014 - Comments of Barbara Jarvis -- 2</u>	1
1			<u>06/25/2014 - Comments of Barbara Yarnell</u>	
1			<u>06/25/2014 - Comments of Berta Seitz</u>	
1			<u>06/25/2014 - Comments of Bobbie Moore</u>	
1			<u>06/25/2014 - Comments of Carrie Thomas</u>	
1			<u>06/25/2014 - Comments of Christina Mullinax</u>	
1			<u>06/25/2014 - Comments of Cherry, Micky, and Stephanie Dzur</u>	
1			<u>06/25/2014 - Comments of Janie Agee</u>	
1		1	<u>06/25/2014 - Comments of Kelly Woods</u>	
1			<u>06/25/2014 - Comments of Mike Adelman</u>	
1			<u>06/25/2014 - Comments of Steven Barger</u>	
1		1	<u>06/25/2014 - Comments of Warren Campbell</u>	
1			<u>06/25/2014 - Comments of Carol Graham</u>	
		1	<u>06/25/2014 - Comments of Don and Lori Benedict</u>	
1			<u>06/25/2014 - Comments of Kim Pate</u>	
1			<u>06/25/2014 - Comments of Kimberly Pate</u>	
		1	<u>06/25/2014 - Comments of Matt Widner</u>	
1			<u>06/25/2014 - Comments of Shirley Claypool</u>	
		1	<u>06/25/2014 - Comments of Albert Dixon</u>	
1			<u>06/25/2014 - Comments of Mike Lemaster</u>	
1			<u>06/25/2014 - Comments of Reva Stover</u>	
		1	<u>06/26/2014 - Comments of James Widner</u>	
		1	<u>06/26/2014 - Comments of Ginger Tippit</u>	
		1	<u>06/26/2014 - Comments of James Peachey</u>	
1			<u>06/26/2014 - Comments of Steve Blumreich -- 2</u>	1
1			<u>06/26/2014 - Comments of Kevin Cheri</u>	
		1	<u>06/26/2014 - Comments of Ben Harper</u>	
1			<u>06/26/2014 - Comments of Carol Bitting</u>	
1			<u>06/26/2014 - Comments of Jan Vanschuyver</u>	
		1	<u>06/26/2014 - Comments of Judy Brown</u>	
1			<u>06/26/2014 - Comments of Kenneth Smith</u>	
1			<u>06/26/2014 - Comments of Lynn Dixon</u>	
1			<u>06/26/2014 - Comments of Margaret Bartelt</u>	
1			<u>06/26/2014 - Comments of Pat McKeown -- 3</u>	1
		1	<u>06/26/2014 - Comments of Robert Brown</u>	
1			<u>06/26/2014 - Comments of Tim Brenner</u>	
1			<u>06/26/2014 - Comments of David Dixon</u>	
1			<u>06/26/2014 - Comments of Deborly Wade</u>	
1			<u>06/26/2014 - Comments of Donna Blake</u>	
		1	<u>06/26/2014 - Comments of Ernie Ott</u>	
1			<u>06/26/2014 - Comments of Gordon Watkins</u>	
1			<u>06/26/2014 - Comments of J. Scott Stanley</u>	
1			<u>06/26/2014 - Comments of Annee Littell -- 2</u>	1
1			<u>06/27/2014 - Comments of Mike Tramontina</u>	
1			<u>06/27/2014 - Comments of Richie Stevens</u>	
1			<u>06/27/2014 - Comments of Alvin King</u>	

For	Neutral/ Unclear	Against	Commenter	Repeat
1			06/27/2014 - Comments of Alvis Haley	
	1		06/27/2014 - Comments of Arch Ryan	
1			06/27/2014 - Comments of the Arkansas Department of Parks and Tourism	
		1	06/27/2014 - Comments of Betty Eddings	
		1	06/27/2014 - Comments of Cynthia Wilson	
1			06/27/2014 - Comments of Debbie Goolsby	
1			06/27/2014 - Comments of Frank Reuter	
1			06/27/2014 - Comments of James Davis	
1			06/27/2014 - Comments of Jim Riggs	
1			06/27/2014 - Comments of Laura Timby	
		1	06/27/2014 - Comments of Leon Wilson	
1			06/27/2014 - Comments of Lynn Eaton	
1			06/27/2014 - Comments of Paula Linder	
1			06/27/2014 - Comments of Randi M. Romo -- 2	1
1			06/27/2014 - Comments of Rich Roy	
			06/27/2014 - Comments of Scharmél Roussel -- 2	1
1			06/27/2014 - Comments of Byron Eubanks	
		1	06/27/2014 - Comments of Darlene Musick	
		1	06/27/2014 - Comments of Jason Henson	
1			06/27/2014 - Comments of Lisa Nagle	
1			06/27/2014 - Comments of Unsigned Individual	
			06/28/2014 - Comments of Fay and Dwayne Knox	
1			06/28/2014 - Comments of Glenda Allison	
1			06/28/2014 - Comments of Gretchen Gearhart	
			06/28/2014 - Comments of Kenneth and Sharon Harrison	
1			06/28/2014 - Comments of Lin Wellford -- 2	1
1			06/28/2014 - Comments of Michael Westerfield	
1			06/28/2014 - Comments of Nancy Harris	
1			06/28/2014 - Comments of Wen Norton -- 2	1
1			06/28/2014 - Comments of Wes Norton	
1			06/28/2014 - Comments of Jocelyn White	
1			06/29/2014 - Comments of Nancy Owens	
1			06/29/2014 - Comments of Mark Edwards	
1			06/29/2014 - Comments of Angel Cross	
1			06/29/2014 - Comments of Burnetta Hinterhuer	
1			06/29/2014 - Comments of Charles Bitting	
1			06/29/2014 - Comments of David Timby	
1			06/29/2014 - Comments of George Fulk	
1			06/29/2014 - Comments of T. Reid Norton	
1			06/30/2014 - Comments of Derek Linn	
1			06/30/2014 - Comments of Gerald Weber	
		1	06/30/2014 - Comments of Harlie Treat	
1			06/30/2014 - Comments of James Metzger	
			Attachment 1	
			Attachment 2	
			Attachment 3	
			Attachment 4	
			Attachment 5	
			Attachment 6	

For	Neutral/ Unclear	Against	Commenter	Repeat
		1	06/30/2014 - Comments of Joe Smith	
1			06/30/2014 - Comments of Janet Parsch	
1			06/30/2014 - Comments of John Murdoch	
1			06/30/2014 - Comments of Julie Brandt	
1			06/30/2014 - Comments of Katherine Brandt	
1			06/30/2014 - Comments of Mary Smith	
1			06/30/2014 - Comments of Nancy Sessoms	
			06/30/2014 - Comments of Sharp County Farm Bureau	
		5	Members	
			06/30/2014 - Comments of Steve and Sally Zahner	
1			06/30/2014 - Comments of Ellen Corley	
1			06/30/2014 - Comments of Gene Milus	
	1		06/30/2014 - Comments of John McGraw	
1			06/30/2014 - Comments of Julia Vollman	
1			06/30/2014 - Comments of Ginny Masullo -- 2	1
1			06/30/2014 - Comments of Iowa Rivers Revival	
		1	06/30/2014 - Comments of Jeff Small	
1			06/30/2014 - Comments of Jerry Turney	
		1	06/30/2014 - Comments of Kevin Wilson	
1			06/30/2014 - Comments of Patti Kent -- 2	1
		1	06/30/2014 - Comments of Randall Quillin	
			06/30/2014 - Comments of Ainslie Gilligan	
1			06/30/2014 - Comments of Alan Muyskens	
1			06/30/2014 - Comments of Andrijka Kwasny	
1			06/30/2014 - Comments of Bridget Mc Nerney	
			06/30/2014 - Comments of Charles and Carole Lichti	
1		1	06/30/2014 - Comments of Charles Fuller	
1			06/30/2014 - Comments of Eunice Millett	
1			06/30/2014 - Comments of Francis Millett	
1			06/30/2014 - Comments of Jacob Killian	
1			06/30/2014 - Comments of Janet Nye	
		1	06/30/2014 - Comments of Jason Parks	
1			06/30/2014 - Comments of Julie Furlow	
1			06/30/2014 - Comments of Mark Smith	
		1	06/30/2014 - Comments of Nathan Gregory	
		1	06/30/2014 - Comments of Richard Campbell	
1			06/30/2014 - Comments of Robert Brewer	
1			06/30/2014 - Comments of Sam Cooke -- 2	1
		1	06/30/2014 - Comments of Steve Balloun	
1			06/30/2014 - Comments of Susan Brandt	
		1	06/30/2014 - Comments of Tom Jones	
1			06/30/2014 - Comments of Toma Whitlock	
			06/30/2014 - Comments of Arkansas Pork Producers	
		1	Association	
1			06/30/2014 - Comments of Barbara McClelland	
		1	06/30/2014 - Comments of Charles Huddleston	
1			06/30/2014 - Comments of Dina and Jeff Nash	
1			06/30/2014 - Comments of Elizabeth Wheeler	
			06/30/2014 - Comments of Greg Grant and Paula Haynes	
1			06/30/2014 - Comments of Herman Jones	

For	Neutral/ Unclear	Against	Commenter	Repeat
1			<u>06/30/2014 - Comments of Jo Duncan</u>	
1			<u>06/30/2014 - Comments of John Gammill</u>	
1			<u>06/30/2014 - Comments of Karen Pope</u>	
1			<u>06/30/2014 - Comments of Karen Sykes</u>	
		1	<u>06/30/2014 - Comments of Kevin Jones</u>	
1			<u>06/30/2014 - Comments of Mary Serafini</u>	
1			<u>06/30/2014 - Comments of Nell Matthews</u>	
			<u>06/30/2014 - Comments of Ruth Weinstein and Joseph McShane</u>	
1			<u>06/30/2014 - Comments of Susan Raymond</u>	
		1	<u>06/30/2014 - Comments of William Jones</u>	
			<u>06/30/2014 - Comments with Illegible Signatures</u>	
2				
1			<u>07/01/2014 - Comments of Amanda Harris</u>	
		1	<u>07/01/2014 - Comments of Andrew Taylor</u>	
			<u>07/01/2014 - Comments of Anna Weeks and Arkansas Public Policy Panel</u>	
1			<u>Attachment 1</u>	
			<u>Attachment 2</u>	
			<u>Attachment 3</u>	
			<u>Attachment 4</u>	
1			<u>07/01/2014 - Comments of Barbara Jaquish</u>	
1			<u>07/01/2014 - Comments of Bil Pettit</u>	
			<u>07/01/2014 - Comments of Christopher Clayborn</u>	
1		1	<u>07/01/2014 - Comments of Hal Hillman</u>	
		1	<u>07/01/2014 - Comments of John Whiteside</u>	
1			<u>07/01/2014 - Comments of Kate Althoff</u>	
1			<u>07/01/2014 - Comments of Kathy Sutterfield</u>	
1			<u>07/01/2014 - Comments of Linda Boulton</u>	
1			<u>07/01/2014 - Comments of Margarita Solorzano</u>	
			<u>07/01/2014 - Comments of Mary and Marion Hines</u>	
1			<u>07/01/2014 - Comments of Melanie Riley</u>	
1			<u>07/01/2014 - Comments of Ray Quick</u>	
			<u>07/01/2014 - Comments of Robert Cross and Ozark Society</u>	
			<u>Attachment 1</u>	
			<u>Attachment 2</u>	
			<u>Attachment 3</u>	
			<u>07/01/2014 - Comments of Robert Cross and Ozark Society -</u>	
1			<u>- 2</u>	1
			<u>Attachment 1</u>	
			<u>Attachment 2</u>	
			<u>07/01/2014 - Comments of Robert Cross and Ozark Society -</u>	
1			<u>- 3</u>	1
			<u>Attachment 1</u>	
			<u>Attachment 2</u>	
			<u>Attachment 3</u>	
			<u>Attachment 4</u>	
			<u>Attachment 5</u>	
1			<u>07/01/2014 - Comments of Ross Noland</u>	
			<u>Attachment 1</u>	

For	Neutral/ Unclear	Against	Commenter	Repeat
			<u>Attachment 2</u>	
			<u>Attachment 3</u>	
			<u>Attachment 4</u>	
			<u>Attachment 5</u>	
			<u>Attachment 6</u>	
			<u>Attachment 7</u>	
			<u>Attachment 8</u>	
			<u>Attachment 9</u>	
1			<u>07/01/2014 - Comments of Ozark Society Arkansas Public Policy Panel and Ross Noland</u>	1
			<u>Attachment 1</u>	
			<u>Attachment 2</u>	
			<u>Attachment 3</u>	
			<u>Attachment 4</u>	
			<u>Attachment 5</u>	
			<u>Attachment 6</u>	
			<u>Attachment 7</u>	
			<u>Attachment 8</u>	
			<u>Attachment 9</u>	
			<u>Attachment 10</u>	
			<u>Attachment 11</u>	
			<u>Attachment 12</u>	
			<u>Attachment 13</u>	
1			<u>07/01/2014 - Comments of T Wesley Dodson</u>	
		1	<u>07/01/2014 - Comments of Claude Bonner</u>	
1			<u>07/01/2014 - Comments of Darcy Rae</u>	
1			<u>07/01/2014 - Comments of Don House</u>	
1			<u>07/01/2014 - Comments of Emily Lane</u>	
		1	<u>07/01/2014 - Comments of Jack Norton</u>	
1			<u>07/01/2014 - Comments of Jay Jansen</u>	
1			<u>07/01/2014 - Comments of Micki Nelson</u>	
1			<u>07/01/2014 - Comments of Pat Ford</u>	
1			<u>07/01/2014 - Comments of Paul Justus</u>	
1			<u>07/01/2014 - Comments of Sue Madison</u>	
		1	<u>07/01/2014 - Comments of Will Jones</u>	
1			<u>07/01/2014 - Comments of Chezna Warner</u>	
			<u>07/01/2014 - Comments of Colene Gaston and Roger Montgomery</u>	
1			<u>07/01/2014 - Comments of Deja Glover</u>	
1			<u>07/01/2014 - Comments of Jan Hart</u>	
1			<u>07/01/2014 - Comments of Jason Seebach</u>	
1			<u>07/01/2014 - Comments of Jay Bender</u>	
1			<u>07/01/2014 - Comments of Kate Kuff</u>	
1			<u>07/01/2014 - Comments of Laura Krupka</u>	
1			<u>07/01/2014 - Comments of Linda Walker</u>	
1			<u>07/01/2014 - Comments of Maggie Seebach</u>	
1			<u>07/01/2014 - Comments of Unsigned Individual</u>	
1			<u>07/01/2014 - Comments of Socially Responsible Agricultural Project</u>	
			<u>Attachment 1</u>	
			<u>Attachment 2</u>	
			<u>Attachment 3</u>	
			<u>Attachment 4</u>	

For	Neutral/ Unclear	Against	Commenter	Repeat
			Attachment 5	
			Attachment 6	
			Attachment 7	
			Attachment 8	
			Attachment 9	
			Attachment 10	
			Attachment 11	
			Attachment 12	
			Attachment 13	
			Attachment 14	
			Attachment 15	
			Attachment 16	
			Attachment 17	
		1	07/01/2014 - Comments of Arkansas Farm Bureau	
			Attachment 1	
			Attachment 2	
			Attachment 3	
			Attachment 4	
			Attachment 5	
		1	07/01/2014 - Comments of Carroll McClure	
		1	07/01/2014 - Comments of Cathy Gifford	
		1	07/01/2014 - Comments of David Crabtree	
		1	07/01/2014 - Comments of David Crawford	
		1	07/01/2014 - Comments of Don Pinson	
		1	07/01/2014 - Comments of J.C. Young	
		1	07/01/2014 - Comments of Jim McClure	
		1	07/01/2014 - Comments of Larry Blasdel Jr.	
		1	07/01/2014 - Comments of Larry Blasdel Jr. -- 2	1
		1	07/01/2014 - Comments of Leslie Anne Jones	
		1	07/01/2014 - Comments of Michael McClelland	
		1	07/01/2014 - Comments of Rick Casey	
		1	07/01/2014 - Comments of Rick Casey -- 2	1
		1	07/01/2014 - Comments of Terrill Dean McClure	
		1	07/01/2014 - Comments of Tim Neidecker	
		1	07/01/2014 - Comments of Wade Rogers	
		1	07/01/2014 - Comments of Wilfred Arnold	
		8	07/01/2014 - Comments of Illegible Signatures	
		1	07/01/2014 - Comments of Allen Stewart	
		1	07/01/2014 - Comments of Charles Mabry	
		1	07/01/2014 - Comments of Cheryl Gibbins	
		1	07/01/2014 - Comments of Don Hubbell	
		1	07/01/2014 - Comments of Eric Mohlke	
		1	07/01/2014 - Comments of Glen Mohlke	
		1	07/01/2014 - Comments of Joshua Collins	
		1	07/01/2014 - Comments of Larry Williams	
		1	07/01/2014 - Comments of Mike Fisher	
		1	07/01/2014 - Comments of Niagle Ratchford	
		1	07/01/2014 - Comments of Pearlean Mohlke	
		1	07/01/2014 - Comments of Randy Clark	
		1	07/01/2014 - Comments of Randy Gibbins	
		1	07/01/2014 - Comments of Raymond Duncan Jr.	
		1	07/01/2014 - Comments of Raymond Staggs	

For	Neutral/ Unclear	Against	Commenter	Repeat
		1	07/01/2014 - Comments of Rick Casey -- 3	1
		1	07/01/2014 - Comments of Rick Casey -- 4	1
		1	07/01/2014 - Comments of Terry Terrell	
		1	07/01/2014 - Comments of Tom Hess	
		1	07/01/2014 - Comments of Tom Williams	
		1	07/01/2014 - Comments of Tony Greenfield	
		1	07/01/2014 - Comments of Bill Dodgen	
		1	07/01/2014 - Comments of Bill Majors	
		1	07/01/2014 - Comments of Bill Wallace	
		1	07/01/2014 - Comments of Dale Quinton	
		1	07/01/2014 - Comments of Hank Chaney	
		1	07/01/2014 - Comments of James Kelley	
		1	07/01/2014 - Comments of Kami Marsh	
		1	07/01/2014 - Comments of Lloyd Westbrook	
		1	07/01/2014 - Comments of Matt Simon	
		1	07/01/2014 - Comments of Ron Cothran	
		1	07/01/2014 - Comments of Ron Cothran -- 2	1
		1	07/01/2014 - Comments of Rusty Butler	
		1	07/01/2014 - Comments of Stan Hayes	
		1	07/01/2014 - Comments of Suellen Butler	
		1	07/01/2014 - Comments of Todd Smith	
		1	07/01/2014 - Comments of Wilma Majors	
		1	07/01/2014 - Comments of Aaron Wilson	
		1	07/01/2014 - Comments of Ardith Smith	
		1	07/01/2014 - Comments of Bob Schaefers	
		1	07/01/2014 - Comments of Chris Schaefers	
		1	07/01/2014 - Comments of Don Rainbolt	
		1	07/01/2014 - Comments of Donya Keaton	
		1	07/01/2014 - Comments of Gary Proctor	
		1	07/01/2014 - Comments of Greg Ragland	
		1	07/01/2014 - Comments of Harlie Treat	1
		1	07/01/2014 - Comments of Harold Hendrix	
		1	07/01/2014 - Comments of James Owens	
		1	07/01/2014 - Comments of Jewell Proctor	
		1	07/01/2014 - Comments of Jim Baker	
		1	07/01/2014 - Comments of Lisa Spain	
		1	07/01/2014 - Comments of Steve Simon	
		1	07/01/2014 - Comments of Travis Chism	
2069	9	220		31
For	Neutral/Uncl ear	Against		

2069	90.03%	Favor Changes
9	0.39%	Neutral
220	9.57%	Against
2298	100.00%	

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF THE OZARK SOCIETY AND
THE ARKANSAS PUBLIC POLICY PANEL

DOCKET NOS. 14-002-R & 14-003-R

RESPONSE TO COMMENTS

The Arkansas Pollution Control and Ecology Commission (hereinafter “APC&EC”) held a public hearing on June 17, 2014 to receive comments on a third-party proposal by the Ozark Society and the Arkansas Public Policy Panel to change APC&EC Regulations 5 and 6, entitled Liquid Animal Waste Management Systems and Regulations for State Administration of the National Pollution Discharge Elimination System, respectively. The public comment period closed on July 1, 2014.

The proposed amendments would prohibit the Arkansas Department of Environmental Quality (hereinafter “ADEQ”) Director from issuing Regulation No. 5 permits for Confined Animal Operations and Regulation No. 6 permits for Concentrated Animal Feeding Operations for facilities in the Buffalo National River Watershed (hereinafter “BNRW”) with either 750 or more swine weighing 55 pounds or more or 3,000 or more swine weighing less than 55 pounds. Approximately two thousand three hundred (2,300) comments from individuals from within the state of Arkansas and nationally were received regarding the proposed amendments. The ratio of comments in support of the proposal versus comments against the proposal is approximately 10:1. A summary of these comments are set out below, as there were several similar issues raised throughout the comments, with the Department’s response following.

Comment #1:

Citizens in support of the proposed changes raised many considerations including, but not limited to, the following:

1. Prevention of water and air pollution;
 - a. Regarding the karst geology of the BNRW and concerns of leakage from waste storage lagoons that could seep into groundwater, drinking water, and ultimately surface waters;
 - b. Impaired streams that currently exist in the BNRW could be impacted;
 - c. Air emissions and odor;

2. Protection of public health;
 - a. Public exposure to water-borne pathogens such as E. coli and fecal coliform bacteria;
 - b. The proximity of a current facility to a grade school;
3. Concern that recreational activities and Arkansas' economy are being threatened; and
4. Other states have initiated similar bans due to negative environmental and ecological impacts.

Response:

The Department acknowledges these comments and recognizes the significance of the Buffalo River as the first National River and as an Extraordinary Resource Water and Natural & Scenic Waterway. The Department further acknowledges that it has an obligation to issue permits for allowable activities in a manner that is protective of waters of the state, wherever located, and believes the current versions of Regulations 5 and 6 address technical issues and permit requirements in a manner that is protective of the environment and public health. Under current versions of the Regulations, the Department utilizes generally accepted and current engineering principles, such as the Arkansas Phosphorus Index (hereinafter "PI"), when developing Nutrient Management Plans (hereinafter "NMPs"), providing guidance on operations management activities such as land application procedures, obnoxious odor management, animal mortality handling, etc., to ensure proper environmentally protective methods are utilized. (For example, permittees may only land apply wastes on fields that rank Medium or Low risk values on the PI scale, while land application is prohibited on sites that are assigned a class label of High or Very High as they are viewed as likely to discharge phosphorus.) The Department employs the PI as an appropriate technical methodology to evaluate land application as an acceptable agricultural practice since the amount of nutrients and manure applied on land application areas are based on soils tests and analysis of the liquids in the holding ponds. Additionally, Regulations 5 and 6 require permittees to comply with numerous conditions to ensure environmentally protective operations, including frequent visual inspections and repair of the waste storage structures, abiding by application rates and upholding buffer zones during land application, records maintenance and regular reporting. Permittees and their facilities also are subject to frequent inspections by the ADEQ Inspection Branch to monitor compliance. To date,

the Department has not received any evidence that the permitted activities in the BNRW endanger human health or the environment.

The Department asserts that, from a technical standpoint, the current versions of Regulations 5 & 6 generally serve to allow for permitting that is protective of the waters of the state. Nonetheless, and without taking a position on this rulemaking, ADEQ asserts that questions addressing whether extra protections should be afforded the Buffalo River, given its extraordinary significance to the citizens of this state and nation, and what additional requirements or restrictions will be applied to permitted activities there, are not technical issues but are policy concerns.

Comment #2:

Citizens against the proposed changes raised many considerations including, but not limited to, the following:

1. No scientific evidence of contamination or environmental threat has been presented;
 - a. The University of Arkansas' Big Creek Research Project should be completed and results analyzed prior to incorporating changes;
2. Current laws and engineering principles such as the Arkansas Phosphorus Index are protective;
3. The threshold is arbitrary as only swine producers of medium and large facilities in the BNRW are affected;
 - a. Small farms and other animal producers in the area are not restricted nor are producers in other areas of the State;
 - b. All sources of pollution in the area should be considered including recreational, industrial, agricultural, and residential; and
4. Farmers' right-to-farm is being threatened.

Response:

The Department acknowledges these comments. As stated in the Response to Comment #1, the Department believes this to be a policy issue, not a technical issue.