



TO: Arkansas Division of Environmental Quality and
Arkansas Pollution Control and Ecology Commission
5301 Northshore Drive
North Little Rock, AR 72118-5317

FROM: Arkansas Farm Bureau Federation
John Bailey, P.E.
Director, Environmental & Regulatory Affairs
P.O. Box 31
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RE: Comments on Proposed Changes to Regulations 5 & 6

To whom it may concern:

The Arkansas Farm Bureau Federation would like to offer the following comments opposing the permanent moratorium on the Buffalo River watershed as initiated in Arkansas Pollution Control & Ecology Commission (APC&EC) Regulation's 5 and 6. Our organization is a non-profit agriculture advocacy association with more than 190,000 members of whom 50,000 are directly engaged in agriculture production. Despite the fact there is no scientific evidence showing that animal agriculture is causing an environmental impact, the Arkansas Division of Environmental Quality (ADEQ) has initiated rulemaking implementing a permanent moratorium in the Buffalo River watershed.

Farm Bureau's focus is to ensure that sound science drives the production practices of our farmers and ranchers and to ensure that regulatory requirements being applied to farmers and ranchers by state and federal agencies employ the same science. That is why we are concerned the ADEQ and APC&EC initiated rulemaking to prohibit landowners within the Buffalo River watershed their right to farm without a single shred of scientific evidence that animal agriculture, and in this case C&H Hog Farms, had caused an environmental impact. Instead ADEQ has allowed emotion to dictate regulation when it should be using sound science.

C&H Hog Farms was, and still to this day, the most heavily scrutinized and monitored farm in the state. The Big Creek Research and Extension Team was originally created by then Governor Mike Beebe to evaluate the potential impact and sustainable management of the C&H Farms operation on the water quality of Big Creek. Several years later, the ADEQ funded a drilling study to evaluate the lithology/geology below the waste storage ponds at C&H Hog Farms and to assess potential subsurface impact from the waste storage ponds. Upon completion of the drilling study, Governor Asa Hutchinson created the Beautiful Buffalo River Action Committee and authorized the development of a Watershed Management Plan for the Buffalo River Watershed that would evaluate its tributaries to determine which would need the most attention. The United States Geologic Survey (USGS) studied algal growth on the Buffalo River, as well as, nutrient concentrations upstream and downstream of Big Creek on the Buffalo River. All of these studies identified above determined either Big Creek continues to maintain pristine water quality and C&H was having no environmental impact.

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In addition to the studies mentioned above, on April 23rd of this year the National Park Service held its first Buffalo National River Science Symposium. During the symposium scientist and attendees were asked to check their biases at the door and to let the science speak for itself. Numerous studies were presented by various third-party groups. All concluded that based on the data collected there were environmental issues in the Buffalo River; however, none could be attributed to the C&H Hog Farms operation. Despite conclusions of these state and federally funded independent third-party studies mentioned above and data presented at the National Park Science Symposium showing C&H Hog Farms was having no environmental impact, both ADEQ and APC&EC have chosen to initiate rulemaking by the precautionary principle rather than sound science.

Environmental groups state the moratorium is based on sound science and the justification used is to merely regurgitate the definition of karst. The mere presence of karst does not constitute scientific justification for a permanent moratorium. All of Northwest Arkansas and Northcentral from the Black River to the Oklahoma Border and North of the Arkansas River to Missouri as well as portion of Southwest Arkansas are underlain by karst. Using this logic, these areas should also be included in the moratorium. However, measured empirical data clearly shows that a properly operated animal operation within the watershed will not have an environmental impact.

Lest we forget, the temporary moratorium was put in place until such time as the Big Creek and Research & Extension Team (BCRET) could study the impacts of the C&H Hog Farms operation. However, ADEQ has decided to initiate rulemaking despite the fact the BCRET final report has not been issued. In addition, at the July 26th commission meeting APC&EC commissioner Dr. Delia Haak requested the ADEQ postpone the comment period until the BCRET final report could be released and the public given an opportunity to review it so as to provide more meaningful feedback. ADEQ responded to Commissioner Haak's request by saying that preparing the public notice is a lengthy process and implied the final report could be issued before the notice was published. However, in less than five business days ADEQ had the notice to the Arkansas Democrat-Gazette for publication. Once again showing that ADEQ has not been forthright with the public and has let emotion rather than science guide the regulatory process.

Finally, the APC&EC commission implemented a temporary moratorium that required the following for Regulation 5:

“Five years from the effective date of this regulation the Director shall initiate rulemaking to either delete this paragraph, Reg. 5.901(E), or delete the entirety of Reg. 5.901.”

And the following for Regulation 6:

“Five years from the effective date of this regulation the Director shall initiate rulemaking to either delete this paragraph, Reg. 6.602(E), or delete the entirety of Reg. 6.602.”

Both Regulations have an effective date of August 28, 2015. Despite the fact that ADEQ is initiating rulemaking one year prior to regulatory requirements, which would allow sufficient time for the BCRET's final report to be issued, the ADEQ is proposing to delete additional sections under Regulations 5.901 and 6.602 which will have an impact to currently permitted facilities within the watershed.

As stated in the opening remarks, the ADEQ continues to ignore independent third-party scientific reports that were paid for using taxpayer money to evaluate the impacts of C&H Hog Farms on Big Creek, that repeatedly stated C&H Hog Farms did not impact Big Creek or the Buffalo River. By finalizing the moratorium ADEQ and the APC&EC will prevent landowners within the watershed from exercising their right to farm and therefore violates Ark. Code Ann. § 2-4-101 et. al.