

Ouachita River Park Commission



October 6, 2013

To: Doug Szenher
POA Division
Arkansas Department of Environmental Quality
5301 Northshore Dr
North Little Rock AR 72118

From: Jeffrey J. Short
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Subject: Comments on Proposed Changes to APC&EC Regulation 6 (Regulations for State Administration of the National Pollutant Discharge Elimination System [NPDES])

The Ouachita River Park Commission (ORPC) is organized for charitable, scientific, and educational purposes to promote the development and preservation of recreational and historical aspects of the Ouachita River corridor in Hot Spring County, Arkansas.

Generally, the ORPC contends that subject changes are premature and should be delayed until the US Environmental Protection Agency has fully considered and agreed that the changes comply with the Clean Water Act (33 U.S.C., section 1251 *et seq*). The ORPC opposes any changes that will not protect water quality standards of surface waters as well as the current and future uses of Lake Catherine and its waters downstream.

The ORPC offers specific comments regarding the subject proposed changes:

- (1) On August 16, 2013, the implementation of Act 954 removes the Domestic Water Supply (DWS) designation of Lake Catherine, even though the lake's current water quality would maintain this designation (see ADEQ "Lake Catherine Report" of August 1, 2013). The lake is used for primary contact recreation as well as secondary uses. The Ouachita River downstream of Remmel Dam is a primary destination in the warm weather months for swimmers, tube-floaters, kayakers, canoeists, and for fishing. The Ouachita River Whitewater Park is a growing, economic asset for the community. Another important, primary contact use in the Ouachita River is the swift-water rescue training received by emergency response teams from many states. If DWS designation for Lake Catherine is retained, then these uses, especially primary contact recreation, can continue to be safely enjoyed by the public.

- (2) Lake Catherine's water flows over Remmel Dam comprising nearly 100 percent of the water for the regional water supplier and the City of Malvern. The Kimzey Regional Water District intake is situated approximately one-quarter mile downstream from Remmel Dam and the City of Malvern's water intake is located about four miles from the dam. Therefore, the DWS designation for Lake Catherine should be retained, since its water is actually the primary water source for the drinking water for thousands of people and businesses. If the water source (*viz.*, Lake Catherine) deteriorates then additional costs may be incurred to treat the water downstream to maintain drinking water standards; these increased costs would be passed along to the consumers. It is unclear that these future costs to treat the water were considered as a result of incorporating changes due to Act 954.
- (3) The DWS designation for Lake Catherine helped ensure high quality waters in the lake as well as downstream. Rainbow trout are stocked and thrive in this reach. Several spots in the Ouachita River downstream of the dam exhibit prime habitat characteristics for the Arkansas Fatmucket Mussel (*Lampsilis powellii*), which is a listed, endangered species. Removing DWS designation from Lake Catherine and its watershed, and consequently, from the Ouachita River downstream of the lake, could further threaten the mussel population. Additional Fatmucket Mussel distribution studies are needed before removing the DWS designation from Lake Catherine, as implemented by the changes required by Act 954. Should viable populations of Fatmucket Mussels be found in the Ouachita River downstream from Remmel Dam, those waters should be designated as an ecologically sensitive waterway as per AFC&EC Regulation 2, (Regulation Establishing Water Quality Standard for Surface Waters of the State of Arkansas). It is unclear that an attainability analysis was conducted either regarding the impact to fishing (*i.e.*, "fisheries") or the ecologic sensitivity of the river that would result from the degradation of Lake Catherine's waters if the DWS designation is removed.

Thank you for this opportunity to comment on the subject changes. If you need additional information, please contact me at 501-337-7107, or by email at jjshort50@gmail.com.