

Mr. Caleb Osborne

30 Sep 2016

Associate Director

Office of Water Quality

Arkansas Department of Environmental Quality

5301 Northshore Drive

North Little Rock, Arkansas

Dear Mr. Osborne,

My name is Robert Larry Hill. I am currently the President of the Lake Conway Home Owners Association and also serve as the **Water Quality Committee Chairman of the Lake Conway Point Remove Watershed Alliance**. Today I am representing both organizations at the hearing on proposed revision to APC&EC Regulation 6. Please let these following comments and questions be considered as my written public comments to be submitted to this hearing. As a community volunteer, I am grateful for the opportunity to have this input.

As I mentioned in my comment to the May APC&EC meeting, there are some serious problems with the NPDES program. I did not go into detail at that meeting but I feel this may the time that public input could possibly help steer ADEQ to avoid some future problems. There appear to be serious flaws with Regulation 6. **I understand this regulation is written to implement applicable State Code.**

House Bill 1314, Regular Session 2015, Section 1. para (1) legislative findings states: **The existing financial assurance requirements for nonmunicipal domestic sewage treatment works that are in place to ensure that funding is available to properly operate these sewage treatment systems for the permitted term can create hardships for those facilities that cannot secure readily available and affordable financial assurance mechanisms.**

As written, the objection to the burden of providing financial assurance, in my opinion is invalid. **Simply for the reason that anyone that goes into business must be prepared by having a positive credit record established and be prepared to meet business capital requirements. Review and reevaluate financial assurance requirements but, by all means, don't discard them entirely.**

1. **Who were the individuals or working group at ADEQ involved in coordinating with Representative Andy Davis and Senator Jason Rapert in crafting House Bill 1314/Act 575?**
2. Does ADEQ fully support this legislation?
3. What analysis was used to determine the feasibility and mechanics of a trust fund to insure financial solvency of NPDES systems statewide?
4. How was upper and lower monetary limits for stated trust fund determined?

There are hundreds of these systems operating in Arkansas. Most of them cost over a half million dollars to build or replace.

5. Why is trust fund capped?

From my experience, I have seen that when a provision is written into a rule, law, or regulation it was usually written there for a reason. The financial assurance provision was added to Regulation 6, May 24, 2012.

6. From ADEQ point of view, how does this change in legislation (Act 575) provide stronger financial safeguards to protect the taxpayers of the State of Arkansas and at the same time help enforce ADEQ, Federal, and State Environmental laws?

Many NPDES are licensed to Corporations.

7. There are many individuals and corporations that own NPDES systems that hire operators to run the facilities. In definitions, why is there no distinction between Owners and Operators?

A recent statement by an official of ADEQ stated that 50% of NPDES had noncompliance issues. A recent list, acquired from ADEQ, of 41 privately owned NPDES throughout the State reveals that each and every one of them have at least minor compliance issues.

8. What legal recourse does ADEQ have to a NPDES Owner (responsible party) if the permit is to a corporation? Corporate civil penalty?

9. Is there a way to license NPDES to have the owner civilly liable for fraud, malfeasance, neglect, or any other reason that would cause harm to the waters of the state of Arkansas?

From my conversations with people in other states, I find there is a tendency these days for lawmakers and lobbyists to influence and change laws, especially environmental laws, to be more favorable to the industry they represent. Director Keogh announced at the 23 Sep 2016, APC&EC meeting that there is presently a 13 million dollar liability for the State of Arkansas in the closure of a landfill. What is the potential for loss with hundreds of NPDES operating when there is no financial assurance requirements except for a merger amount of money in a trust fund? The landfill and gas and oil producers are still required buy this same law to provide financial assurance. When they discover the relief granted NPDES owners they will likely ask for the same.

10. Are there any projections for NPDES losses over the next 5 or 10 years?

Always remember, just because a NPDES permit is not renewed doesn't mean the waste water stops flowing.

Very Respectfully,



Robert Larry Hill

President

Lake Conway Home Owners Association

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