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Re: Comments of the Friends of the North Fork and White Rivers on the proposed revisions to the Arkansas Pollution Control and Ecology Commission Regulation 6

Friends of the North Fork and White Rivers (Friends) is a nonprofit watershed organization focusing on the middle section of the White River watershed. The following comments are in response to the August 2016 Markup Draft revisions of APCEC Regulation 6. Friends adopts the comments made by the Buffalo River Watershed Alliance and the Arkansas Environmental Defense Alliance.

Section 6.202(F) states “For general National Pollutant Discharge System Permits, a state construction permit is not required if the construction is authorized under the general permit.”

Friends considers the construction permitting process an important step in the review and approval of an engineer’s construction plan as well providing notice to the public. Medium and large concentrated animal growing factories as well as mineral processing facilities are capable of, and have proven to have very significant and potentially devastating effects upon the waters of the state. Instead of weakening the permit process the ADEQ should be requiring a separate construction permit.

Section 6.301(D)(4) states “The fecal coliform content of discharges shall not exceed a monthly geometric mean-average of 200 colonies per 100 milliliters and a weekly geometric mean-average of 400 colonies per 100 milliliters. However, at no time shall the fecal content exceed a geometric mean of 200 colonies per 100 milliliters in any water defined as an Extraordinary Resource Water or Natural and Scenic Waterway.”

In recent years, guidance from the EPA has suggested that the utilization of *E. coli* was more effective in monitoring surface waters from a human health perspective and a better indicator of bacterial impairment than was fecal coliform. In order to be consistent with existing state regulations and conform to federal recommendations, *E. coli* should be the indicator of choice. The final sentence of the section does not specify a time period during which the geometric mean is to be calculated. The sentence should specify the minimum number of samples taken to calculate the mean, or a minimum time period during which the samples are to be collected.

Section 6.207 makes reference to public notice requirements “for a general permit for a proposed Concentrated Animal Feeding Operation in Arkansas(ARG59000)”

This contradicts the public announcement and the following public notice issued by the ADEQ Director in response to public comments dated May 4, 2016 stating that ARG59000 would not be renewed. Friends recommends that the Draft Markup be revised to eliminate the possibility of general permitting of medium and large CAFO’s. General permits were not designed to accommodate facilities with the amount of waste created by medium and large CAFO’s, nor do they take into consideration the geology and sensitive waters that are not suited for large amounts of waste.

Section 6.201(H) 94 Other Biological Systems

Assuming that under Regulation 6 a medium or large size swine CAFO may still be granted a general permit, the standards for land application of waste are very different from a permit granted under Regulation 5. For an identical medium or large CAFO permitted under Regulation 5, land treatment of wastewater must meet various technical requirements (e.g., Reg. 5.401, 5.402, 5.403, 5.404, 5.405, 5.406, 5.407). Also the waste management plan must be in accordance with the United States Department of Agriculture Natural Resource Conservation Service technical publications Field Office Technical Guide and the Agricultural Waste Management Field Handbook. Under Regulation 5.601, a separate permit may be issued for a land application site. Yet the processing and land application of waste, as well as the volume and content of the waste is the same whether the facility is permitted under Regulation 5 or 6.

Having two different permit options for a swine CAFO, ADEQ may then be granting unfair competitive advantage to one business over another; and, at the same time, allowing the environment near the facility with the lower regulatory standard to suffer greater degradation. For this reason, Friends recommends that the same technical requirements as in Chapter 4 of Regulation 5 be added to Regulation 6 for medium or large swine CAFO's.

Thank you for your consideration of our comments.

Sam D. Cooke

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