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From: footholdfarm@yahoo.com
Sent: Sunday, September 15, 2024 4:25 PM
To: Public Comment
Subject: Attn: Carol Booth, Comments on Reg.6 Rulemaking

I support the comments of the Buffalo River Watershed Alliance :

BRWA comments and background on rule making for changes to Regulation 6.

Background

Regulation 6 of the Arkansas Pollution Control and Ecology Commission defines the rules for the Arkansas Division of Environmental Quality (ADEQ) to administer the National Pollutant Discharge Elimination System (NPDES), a program delegated to the state by the federal Environmental Protection Agency.

Reg 6 applies primarily to construction storm water permits, wastewater treatment plant permits, and pesticide applicator permits. Importantly, it also covers liquid animal waste permits, such as the one previously held by C&H Hog Farm, which was cancelled and closed by the State in 2019. C&H was the first and only such animal waste permit issued under Reg 6. (Others previously were and are currently permitted under Reg 5, a separate state permit program now administered by Arkansas Natural Resources Commission (ANRC)).

As part of the resolution of the C&H permit, then-Governor Asa Hutchinson directed ADEQ to take steps to establish a permanent moratorium against the issuance of any future swine permits within the watershed of the Buffalo National River to prevent the recurrence of such a threat to the river. The state legislature struck down a previous effort by ADEQ to comply with the Governor's request.

Comments on Rule Making

This rule making primarily addresses changes necessary to comply with the federal NPDES program and includes such things as updates to federal and state law, clarifications and minor corrections. Of interest to BRWA and our supporters are the changes to Chapter 6, "Specific Watershed Requirements" which establishes a permanent moratorium, stating in part, "*The Director shall not issue a permit pursuant to this rule for a new swine CAFO in the Buffalo National River Watershed*" **We fully support this language.**

However, 6.602(C) says, "*This rule does not prohibit the Director from: issuing a new Rule 6 permit for a facility that holds an active Liquid Animal Waste Management Systems permit as of the effective date of this rule.*" The section does allow for the issuance of new Reg 6 permits to holders of existing Reg 5 permits in the watershed but does not allow for any increase in the number of animals. Because this rule making makes direct reference

to “Liquid Animal Waste Management Systems” (ie: Reg 5 permits), the following comments regarding Reg 5 permits are within the scope of this rule making and therefore require a response.

BRWA has identified four facilities in the Buffalo River watershed with “Active” Reg 5 permits, although none are currently operational and most have been effectively closed for several years, are in violation of regulations, and should be voided. They include the following permits:

- 4067-W in Marshall, AR, issued in 1991 for 60 dairy cows. A 2013 inspection report stated it was “not in operation” and recommended a closure plan be prepared. DEQ requested annual reports or a closure plan in 2010 but none have been submitted since 2009.
- 3132-WR-4, Deer, AR issued in 1998 for 400 sows. Inspection reports in 2007, 2008, 2011 and 2012 all indicated “no animals are present, ponds are essentially empty”. In 2018 DEQ requested annual reports or a closure plan. No annual reports are posted for this permit since its issuance.
- 3823-WR-5, Lurton, AR issued in 2003 for 425 sows. Inspection report in 2017 stated “not operating for some time”. In 2017 DEQ issued an enforcement report indicating the facility “has not been in operation for some time” and requesting a closure plan or annual reports. In 2018 DEQ again requested annual reports or a closure plan. Neither have been posted since the permit was issued.
- 3540-WR-7, Vendor, AR issued in 2012 for “ land application of swine waste from C&H Farms only”. C&H ceased operations in 2019. No annual reports or closure plan have been posted since 2019.

Although these four facilities have not completed the required closure procedures, none have any animals and none have submitted annual reports since 2019 or earlier which places these facilities in violation of the law and these permits should be immediately voided. Further, we would like clarification from DEQ as to whether any of these permits, if they are not voided, could be reactivated to either 1) restock animals and resume previous operations, or 2) accept waste from other facilities for field application, including industrial waste. If these facilities could be reactivated, or they can accept transferred waste, we do not support this language.

While BRWA generally supports this rulemaking we would like clarification regarding section 6.602(c) referencing existing Reg 5 permits in the watershed.

I am a native Arkansan and have lived in the Buffalo River Watershed for 47 years. It is of the utmost importance that we preserve and protect this beautiful area for generations to come for our state and our nation.

Sincerely,

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