

PO Box 61
Mountain Home, Arkansas 72654



Monday, October 21, 2013

Doug Szenher
Public Outreach and Assistance Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

Re: Proposed changes to APCEC Regulation 15

Dear Mr. Szenher:

Friends of the North Fork and White Rivers (*Friends*) appreciates the opportunity to comment on the proposed changes to Regulation 15.

Friends realizes that many of our goals as a watershed protection organization may only be addressed through legislative changes to the regulations governing the care of our stream banks and waterways. In general *Friends* believe that all in-stream mining should be permanently banned. This practice is known to have deleterious effects on both up stream erosion and downstream silting. Most states have already banned this practice and it is time for Arkansas to do so also. ADEQ, AGFC and ANRC all know in-stream gravel/sand mining is damaging to streams, it's time for the PC&EC to act to ban this practice.

Friends of the North Fork and White Rivers (*Friends*) submits the following comments regarding Regulation 15:

Under 15.201

Friends believes that various sections of the White River and the North Fork of the White should not be excluded under Stream Bed or stream Channel definitions. The upper and middle section of the White and the North Fork from the dam to the confluence of the White do not fit the classification described, i.e., "Due to the naturally high turbidity and flow rate of certain rivers, the provisions of this Regulation do not apply to the following rivers:" Although flow rate is high, the flow is typically controlled by dams on the river and extreme flows occur only during large storm events.

Under Section 15.301 (G)(1)

Friends believes there is an enormous loop hole in this section, sometimes referred to as the Landowner exemption. Existing law can be interpreted in various ways and thus far, it appears landowners are taking advantage of the landowner exemption based on their own interpretation and the lack of specifics

in the existing law. The following comments relate to issues Friends believes need to be addressed by ADEQ, ANRC, and the PCEC through legislative actions:

- Landowners should not be exempted from being required to obtain permits for the removal of material from streambeds or streams within the high water mark. As stated above this material removal causes upstream erosion and downstream silting and continues to be destructive to our Arkansas streams. And, landowners are abusing this exemption.
- Landowners also should be prohibited from mining sand/gravel on their property for use on other properties they own. Landowners should still be allowed to remove sand/gravel from areas on their property above the high water mark for use on that property for roads or building construction and should still be required to obtain a permit.
- There are landowners who mine material from one property they own, and then transport it to other properties where it is stockpiled and eventually sold commercially. These actions should require commercial mining permits.
- There are landowners who are mining material along streams in such a way that the stream channel is being significantly modified. Requiring landowners to obtain permits would provide information on the legal and illegal mining practices.

Under 15.301 (H)(4)

Friends believes agriculture should not be exempted from provisions under this Regulation but acknowledges that existing law exempts agriculture.

Thank you for considering these comments.

Sincerely,

Jerry Weber, Vice President
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cc: Jane Darr, President
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Friends of the North Fork and White Rivers is an Arkansas 501(c)(3) non-profit organization devoted to creating an ongoing dialogue where individuals, groups, and government agencies can work together to conserve, restore and enhance these beautiful rivers.