



August 22, 2018

Arkansas Department of Environmental Quality
Attn: Director Becky Keogh
5301 Northshore Drive
North Little Rock, AR 72118

Re: Comments on the proposed Antidegradation Implementation Plan

Dear Director Keogh:

Please find enclosed comments regarding the proposed Antidegradation Implementation Plan. I would like to thank Director Keogh for the opportunity to participate on the Antidegradation Focus Group and her staff in the Office of Water Quality for all of their hard work in facilitating the workgroup. The following comments are on the proposed definitions that could have long term impacts on both economic development as well as our states high quality waters. Additional comments regarding specific revisions to the Plan may be provided at a later date.

First the definition for Tier 2 waters in the proposed antidegradation plan is too broad. EPA defines Tier 2 waters as high quality waters where existing water quality conditions for the waterbody are better than necessary to protect CWA 101(a) uses. However, instead of ADEQ defining how to determine threshold of a high quality water the Department has decided to define a Tier 2 water based on the type of stream. Under this proposal, Tier 2 streams are currently defined as: intermittent stream, spring/seep, perennial stream, lake or reservoir, or wetland. Based on that definition most if not all NPDES applications would require a degradation significance review as well as an alternative, economic, and social development analysis. While an alternative, economic, and social development analysis may not always be necessary, many businesses will likely opt to perform the analysis in an effort to minimize the time to obtain a permit for fear the Department disagrees with the permittee's degradation determination. Using a definition this broad not only has the potential to limit economic growth in the state but could also have environmental implications. If every water body in the state is defined as a Tier 2, 2.5, or 3 many businesses will be discouraged from opening or expanding in Arkansas and instead go to neighboring states that may have more reasonable requirements. In addition to impacts on businesses, the additional requirements could put a significant strain on Department resources. Even if the process is streamlined for review one has to question the Departments ability to protect water quality since it will be spending all of its time reviewing antidegradation analysis with every application. Rather than this approach more time should be spent defining Arkansas' high quality waters so that Department resources can be spent on protecting truly high quality waters. This could be accomplished by using the Department's extensive monitoring network and historical data to clearly define high quality waters. This should be compared to the Department's resources and determine if enough staff is available to review and ensure that Arkansas' high quality

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waters are being protected. If the Department lacks necessary resources additional funds should be sought or increase the criteria for high quality waters (which could be added back with a public notice process once additional funding is secured).

In addition, the Department should spend more time evaluating the economic impacts of implementing Tier 2.5 on drinking water sources. Ensuring the states drinking waters are protected should be of highest priority and nothing in this letter should be viewed as anything less. However, only allowing activities to lower the water quality of a Tier 2.5 water up to 10% of the assimilative capacity seems arbitrary and extremely restrictive. It is recommended that additional impacts should be looked at, including financial impacts to water treatment as well as industrial facilities. The Department should also look into developing models to facilitate reservoir water quality review. If all of the data supports the existing plan, then the proposed limitations should be kept.

Once again thank you for all your hard work and I look forward to discussing these comments with you.

Sincerely,

A handwritten signature in cursive script that reads "John Bailey". The signature is written in black ink and is positioned above the printed name and title.

John Bailey, P.E.

Director, Environmental & Regulatory Affairs