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## Arkansas Game and Fish Commission

August 13, 2020

Becky W. Keogh, Secretary  
Arkansas Department of Energy and Environment  
5301 Northshore Drive, North Little Rock, AR 72118

&

Jacob Harper  
Arkansas Department of Energy and Environment  
5301 Northshore Drive, North Little Rock, AR 72118

### **RE: Notice of Public Comment - Continuing Planning Process (CPP)**

Secretary Keogh and Mr. Harper,

Biologists with the Arkansas Game and Fish Commission (AGFC) have reviewed the subject referenced notice, and have participated in a series of stakeholder meetings discussing these proposed changes to Arkansas water policy. We appreciate the opportunity to engage in these stakeholder meetings. In addition to comments and questions raised by our agency during these stakeholder engagement meetings, we also offer the following comments, questions, and suggestions organized into categories by CPP chapter.

### **Statistical Methods**

AGFC encourages consistent use of statistical average methods. The draft CPP utilizes geometric means for the purpose of averaging (Chapter 4.5) effluent samples or in some instances available upstream data (Chapter 4.9). However, for minerals (Chapter 4.15.11) the arithmetic mean is used for averaging upstream data. Preference should be given to use of the arithmetic mean as the geometric mean will consistently provide less conservative output for the same range of values.

### **Chapter 1.3 Biological Integrity**

#### *1.3.2 Aquatic Life Verification Procedure*

We recommended adding the following language for clarification purposes: "APC&EC Rule 2.505 includes several exceptions as to when the ecoregion dissolved oxygen criteria are not applicable and

when other criteria apply to waterbodies as it is anticipated aquatic life would not persist. These exceptions include:"

### *Evaluation Process*

The 2000 CPP provided a detailed outline for performing aquatic life use evaluations. The proposed evaluation process provides the minimum level of data required, but offers very little guidance. Is it the intent of DEQ to provide a separate and more thorough guidance document for third-parties that may wish to pursue aquatic life evaluations? The AGFC requests further participation in the review of aquatic life attainment evaluations and decisions. The mission of the Arkansas Game and Fish Commission, "is to conserve and enhance Arkansas's fish and wildlife and their habitats while promoting sustainable use, public understanding and support." With the mission of AGFC in mind, skilled fisheries biologists and aquatic ecologists can assist DEQ in the development of standardized aquatic life evaluation methods as well as review of evaluation decisions.

## **Chapter 3 Water Quality Management Plan (WQMP)**

Please consider the adding to the WQMP a Tier 2 waterbody's baseline water quality and assimilative capacity whether determined prior to a NPDES or at the time of application.

### **3.2.1 Reservoirs/Lakes**

Please refer to AGFC's comments submitted with the Antidegradation Implementation Methodology letter.

## **Chapter 4.15.6 Total Phosphorus**

Note that specific discharge requirements were removed from Rule 2.509 and proposed in Rule 6.404(F). The AGFC encourages DEQ to also consider adding monitoring and reporting requirements to all new facilities or expanding activities discharging to a waterbody that is currently identified as Category 3 (Insufficient Data) for nutrients. Additional nutrient loads on a system already exceeding the 75<sup>th</sup> percentile for its ecoregion will only exacerbate nutrient related water quality issues, particularly as the waterbody has not been fully assessed to be attaining water quality criteria.

## **Chapter 5.1 Monitoring Location**

The AGFC encourages the addition of language that the permit engineer should consult with trained scientists from the Office of Water Quality Planning Branch on the appropriate monitoring location.

## Chapter 7.0 Public Participation and Notice

In line with interagency cooperation, the AGFC cordially requests any advance notice to provide input on permitting actions. The AGFC recommends inclusion of antidegradation review procedures to the public participation opportunities identified in Chapter 7.0

The AGFC appreciates the opportunity to participate in stakeholder discussions and to comment on this proposal. We look forward to working with the DEQ to ensure that the trust resources of this state are conserved while balancing the many needs and interests of all Arkansans.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Chris Racey', with a stylized, looping design.

Chris Racey

Deputy Director

