

Thank you for the opportunity to provide comment in regard to the Antidegradation Implementation Methodology (AIM).

I respectfully urge the Arkansas Department of Energy and Environment (E&E) to heed the Environmental Protection Agency's recommendation that E&E lay out the steps for assuring the highest statutory and regulatory requirements for point sources are achieved and also assuring that the lowering that is being authorized will not impair existing uses as required by 40 CFR 131.12(a)(2).

In regard to nonpoint activities, EPA's "Water Quality Standards Handbook" expressly states that nonpoint source activities are not exempt from the provisions of the antidegradation policy. See Chapter 4, "Antidegradation". I urge E&E to explain how ADEQ will communicate with controlling agencies to assure compliance with the applicable regulatory programs before authorizing lowering of water quality.

Additionally, I respectfully request that E&E take note of EPA's position on Outstanding Resource Waterways (ONRW) also outlined in Chapter 4 of the "Water Quality Standards Handbook" as follows:

#### **4.7 Outstanding National Resource Waters (ONRW) -40 CFR131.12(a)(3)**

Outstanding National Resource Waters (ONRWs) are provided the highest level of protection under the antidegradation policy. The policy provides for protection of water quality in high-quality waters that constitute an ONRW by prohibiting the lowering of water quality. ONRWs are often regarded as highest quality waters of the United States: That is clearly the thrust of 131.12(a)(3). However, ONRW designation also offers special protection for waters of "exceptional ecological significance." These are water bodies that are important, unique, or sensitive ecologically, but whose water quality, as measured by the traditional parameters such as dissolved oxygen or pH, may not be particularly high or whose characteristics cannot be adequately described by these parameters (such as wetlands). The regulation requires water quality to be maintained and protected in ONRWs. EPA interprets this provision to mean no new or increased discharges to ONRWs and no new or increased discharge tributaries to ONRWs that would result in lower water quality in the ONRWs. The only exception to this prohibition, as discussed in the preamble to the Water Quality Standards Regulation (48F.R.51402), permits States to allow some limited activities that result in temporary and short-term changes in the water quality of ONRW. Such activities must not permanently degrade water quality or result in water quality lower than that necessary to protect the existing uses in the ONRW. It is difficult to give an exact definition of "temporary" and "short-term" because of the variety of activities that might be considered. However, in rather broad terms, EPA's view of temporary is weeks and months, not years. The intent of EPA's provision clearly is to limit to the shortest possible time.

A codified Arkansas Antidegradation Policy (as currently referenced in Regulation 2) provides the requisite means to ensure instream uses are maintained and protected.

Arkansas waterways deserve the highest protection afforded by law.

Dane Schumacher

Cc:

Maria Martinez, Permitting & Water Quality Branch