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Subject: Cpp-antideg comments
Importance: Normal
Attachments:
AIM-CPP.docx;

Please accept these comments on behalf of the Ozark Society.

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October 2,2020

Thank you for the opportunity to submit comments on CPP and AIM.

The long and very technical nature of these documents preclude a detailed analysis of many aspects for citizen groups that were not able to have a personal presence throughout the process. However, certain aspects seem significant enough for further discussion or change. The Ozark Society is leery of substantial changes that threaten to reduce the water standards in the state. Specifically:

- **Adopting WOTUS (waters of the United States) rather than the more inclusive "Waters of the State."**

The WOTUS definition is ambiguous, "*certain* lakes, ponds, and impoundments," and tied too closely to the very limited set of "*traditional* navigable waters" and "perennial and intermittent tributaries to these waters." Left out are many ditches, groundwater, prior converted cropland, ephemeral streams, and adjacent wetlands. For the Ozark Society the exclusion of groundwater is pivotal since much of north central Arkansas is in karst terrain and 30% of stream flow is commonly groundwater. In fact, contrary to expectations, springs in the Buffalo River often are sources of elevated nutrients according to USGS studies.

- **The substitution of the word "justified" for the word "necessary."** APC&EC Reg 2.202, "[where] the quality of the waters exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on water, … , that allowing lower water quality in which the waters are located is [necessary vs justified] to accommodate important economic or social development in the area in which the waters are located. But this is not just a semantics issue. The terms "economic or social development" are in the eyes of the beholder and are not easily quantified in comparison to eliminating or significantly altering the habitat of even common species, much less uncommon ones. A case in point. The red fin darter spawns in headwater streams in the Arkansas River Valley, sometimes in watersheds as small as 100 acres, and in very small, intermittent pools. The road crossings of these streams are often culverts, which if not properly installed (by saving money without effective design) create hydraulic jumps that cut off the darters from spawning areas. Is this justified to save money or is it necessary?

- **The use of assimilation as a tool to consume "unneeded" pollution capacity.** The whole concept is dubious. Firstly, the detrimental effects of any pollutant are ideally expressed as a probability curve (for instance, a normal curve) that attempts to predict damage likelihood dependent on numeric level. There is no magic number that delineates being degraded, just a likelihood. But allowing an addition of a pollutant moves the curve, to the right, say, increases the likelihood of damage – a tradeoff that is not easily measurable economically or socially. At a minimum there needs to be a comfortable buffer, or even better a complete statistical analysis of assimilation judgements in the case that technological improvements or changed environmental constraints are the justification given for assimilation.

- **The lack of protection for streams with watersheds of less than 10 mi^2.** The chance of calling out a team from DEQ to individually check these streams is not a viable answer for even determined citizens. The red fin darter mentioned above spawns in such streams, it deserves protection from pollutants, say ammonia from headwater wastewater plants, that can legally reduce oxygen levels to 2 mg/L according to DEQ rules. How about the troublesome waste water plant at Marble Falls with a watershed of 3.5 sq mi.? Are the same lax rules going to pertain when Bass Pro builds a mega development?

David Peterson, President, Ozark Society