

2016 Public Hearing Comments Concerning Arkansas Draft 2016 303 (d) list

March 1, 2016

Charles Bitting,
402 North Walnut Suite 136
Harrison, AR 72601

The following comments were spoken by Mr. Charles Bitting:

Good afternoon, my name is Charles Bitting, I am fortunate to serve as the natural resource program manager at the Buffalo National River a unit of the National Park Service. Today I am submitting these comments for the record on the 2016 303 (d) stream list. These comments are being submitted on behalf of the Buffalo National River.

So this year the National Park Service is celebrating its centennial. And I would like, myself and all of us at the Buffalo National River on behalf of everyone there, I would like to invite any and all of you to come and visit Buffalo National River or any other National Park Unit of your choice throughout our great country. We are truly blessed to have such resources available for our people.

Today is a special day for Buffalo National River. Forty-four years ago, after years of strong public support and the bipartisan efforts of U.S. Senators J. William Fulbright, John McClellan, and Representative John Paul Hammerschmidt, Arkansas's Governors Orval Faubus and Dale Bumpers, President Richard Nixon signed the Buffalo National River Bill into law which created the Buffalo National River. And out of the law, which is public law 92-237, the purposes of the Buffalo National River are to conserve and interpret an area containing unique scenic scientific features and to preserve as a free flowing stream an important segment of the Buffalo River in Arkansas for the benefit and enjoyment of present and future generations.

The fundamental purposes of the National Park Service are to conserve the scenery, the natural and historic objects, and the wildlife within the parks and to provide for the enjoyment of the scenery, the natural and historic objects and the wildlife within the parks in such a manner and in such a means as will leave them unimpaired for the enjoyment of future generations. Furthermore, the protection of National Park Service units must be conducted in light of their high public value and the integrity of the National Park System and it must not be exercised in derogation of the values and purposes for which these units were established, unless Congress directly and specifically provides otherwise.

The Clean Water Act established the basic structure for regulating discharges of pollutants into the waters of the United States, and regulating water quality standards for surface waters.

So, the purposes of the Buffalo National River are to conserve the unique scenic and scientific resources and preserve the Buffalo River as a free-flowing stream for the benefit and enjoyment of future generations, as I said before. A significant component of that conservation for the benefit and enjoyment concerns water based recreation. Fishing, swimming, canoeing, wading: these are all extremely common water based recreations on the river. Often these result in primary contact whether you purposefully are swimming or you are inadvertently swimming cause you turned your canoe over on a rock or a tree. The quality of the water; therefore, needs to reflect this very fact. The Buffalo River is also home to numerous federally listed mussels and bat species which rely upon good quality water to thrive and survive. And then dozens of state listed species or species of greatest conservation concern also occur along the Buffalo River.

So I'm here today to ask ADEQ to add a couple of tributaries to the 303 (d) list or consider adding them and also add another factor to one of the tributaries that's currently listed.

- 1. The first tributary is Mill Creek at Pruitt. The station is BUFT04. We believe it should be added for E. Coli or fecal contamination. We've been collecting E. coli samples from Mill Creek on a weekly basis for well over a year. The results are regularly over the limit set by Regulation 2. In fact in four or five months of primary contact season 2015 the geometric mean exceeded 126 colonies per 100 mL. The E.Coli coming into the Buffalo River from Mill Creek is a threat to a significant proportion of our visitors. We feel this is*

such a potential health and safety impact that we have posted warning signs along Mill Creek and downstream along the Buffalo.

- 2. Big Creek at Carver should be added for low dissolved oxygen values. Dissolved oxygen is necessary for all aquatic life. The creek has a large diurnal fluctuation of dissolved oxygen during the critical period which puts the stream in an impaired condition through much of the summer. The dissolved oxygen data is based on USGS gaging station just above the Buffalo River. It also collects a suite of parameters on a continuous basis, in addition to dissolved oxygen. Adequate levels of dissolved oxygen are very important for aquatic life. The Buffalo River is home to native mussels and numerous game fish, including the smallmouth bass. As a Blue Ribbon Smallmouth bass stream, dissolved oxygen levels in the Buffalo River need to be protected to maintain the fishery. A reduction in dissolved oxygen would likely result in fewer fish and mussels, lower angling success, and reduced revenues for businesses which rely upon the Buffalo River for all or parts of their profits.*

I think my time is up. We'll be sending in written comments.

Ginny Masullo
1837 North Ruppel Road
Fayetteville, AR 72704

The following comments were spoken by Ginny Masullo:

I speak for myself. Yep forty four years ago the Buffalo River was declared our nation's first national river. Happy Birthday Buffalo River. And two generations now, going on three, have benefited from the Buffalo National River. Not only for its natural beauty but also as an economic engine for Arkansas. My hope and my petition today to the ADEQ is that the wide public pleas for the state protection of the Buffalo River be seen by the Arkansas Department of Environmental Quality as a collaborative effort between ADEQ and the citizens of Arkansas. Data from the National Park Service suggest impairment of three tributaries of the Buffalo River. They didn't make it to the 303 (d) list. It benefits ADEQ and the citizens it serves to use this data provided by the NPS in the most expedient way possible. This needs to be done regardless of any various impediments and regardless of 303 (d) status. I ask that the ADEQ be authentic and responsive to the citizens of Arkansas regarding this matter. These actions need to be well explained and understandable to the public. Responding and acting on the NPS data are essential to the fulfillment of the ADEQ's mission to protect, enhance, and restore the natural environment for the well-being of all Arkansans. I have one question. You're emphasizing the email because I'm sure that is easier for yall but you accept mail, snail mail, comments correct?

Becky Allison:

Yes. Absolutely. I was emphasizing email because this is a little different email address than we often use for comments. Either one is..

Ginny Masullo:

And I just wanted to add in response to some of the questions that I had earlier in that it would be a Directors decision about allocation of resources. I would urge that those allocations of resources be used because the Buffalo National River is not only an Arkansas Extraordinary Resource Water, it is a national and indeed international Extraordinary Resource Water. Thank you.

Colene Gaston
Beaver Water District
P.O. Box 400
Lowell, AR 72745

The following comments were spoken by Colene Gaston:

As was discussed during the informal question and answer session, it is not possible for the public to access the data or a large amount of the data that was used to make the decisions for the 303 (d) list. So I have requested that ADEQ do what it can to post, as quickly as possible, all of the data that was used in the decision making. And I would also ask that the comment period on the 303 (d) list be extended. It'd be great if it could be extended for at least 10 days after the data is posted on the website. But realizing that it may take a while for that data to get posted I would at least ask that the comment period be extended for 10 days from the current deadline of March 11th so that folks who are interested, that have not been able to find the data, can at least contact verbally or in some way contact the staff at ADEQ to try to access the missing data. So that's my basic request. Extension of the public comment period. I realize that ADEQ has a deadline with EPA for submitting the draft final list but given that EPA is six years behind on its decision making in this process I think it's reasonable for ADEQ to ask for a delay in submitting the list to EPA. Thank you.

Teresa Turk
1408 West Cleveland
Fayetteville, AR 72701

The following comments were spoken by Teresa Turk:

Good Afternoon. Today I am representing the National Parks and Conservation Association. Thank you for providing an opportunity to comment on the 2016 proposed 303 (d) listing of waterbodies of Arkansas and the conspicuous absence of Mill Creek, the upper Buffalo-Newton County-Big Creek on your list of impaired streams.

As you know the Buffalo River is the iconic symbol of Arkansas' motto "The Natural State" and is the reason why tourists spend over 56 million dollars creating 890 jobs in this area of rural Arkansas in 2014. That's according to the National Park Service. Statewide in 2014 tax collections from tourism were up 7.04% over calendar year 2013 with a total of \$13.79 million dollars in revenue. Employment in the tourism sector is up 23% in the past 10 years. Residents of Newton and Searcy County are in desperate need of jobs as these counties are some of the poorest in the state and nation. Jobs generated from tourism tend to be long term and sustainable. Tourism is a vital part of our state's economy and is highly dependent upon tourists recreating in clean waters free of algae, harmful bacteria, or other contaminants.

Recently the National Park Service submitted a request to the ADEQ to list three tributaries (Mill Creek, Bear Creek, and the Upper Buffalo-Newton County-Big Creek) of the Buffalo National River as impaired. The NPS cited data from their data collection program and from the US Geologic Survey's automated data collection stations at Carver and Bear Creek. This past January 2016, ADEQ posted a list of impaired streams on the agency's website and two streams (Upper Buffalo-Newton County-Big Creek and Mill Creek) were not listed as impaired.

As stated on their website, ADEQ assesses water quality monitoring data from numerous locations around the state and utilizes a comprehensive assessment methodology to determine which waters are not meeting their designated uses or water quality standards as listed in Regulation No. 2, but nowhere in Regulation 2, in the latest version of Integrated Water Quality Monitoring and Assessment Report, or the proposed draft 2016 Assessment Methodology, does ADEQ provide detailed descriptions of this comprehensive assessment methodology (that includes sampling methods, frequency, quality assurance/quality control, data evaluation, and statistical methods used) to determine if a stream is impaired or not. Now I know today some of that information was provided but not in the detail that's needed to reproduce the results and to do the kind of analysis that ADEQ does. Because there's no regulatory, policy, or guidance document that provides adequate details on the analysis or methodology used, it's impossible for the public to understand the decision process by ADEQ in determining whether a stream should be impaired or not.

For these reasons I'm requesting that ADEQ do the following:

1. *Draft a public document that specifies in great detail the data used, the QA/QC review process, sampling methodology, statistical analysis, and threshold decision that is made to determine if a water body is impaired.*
2. *Identify within Regulation 2 where the methodology and assessment tools are located. If they are not present, then please begin the process of incorporating these methodologies and analysis into the regulatory framework.*
3. *Implement models that incorporate high quality, continuous data in their analysis.*

With respect to the third item, I know that collection of high quality, continuous data can be expensive. ADEQ stated in the latest version of the Integrated Water Quality Monitoring and Assessment Report that agencies are solicited for data to aid ADEQ in its evaluation of the uses of the state's waters, so ADEQ should be aware that in May 2014, the USGS installed an automated data collection gage on Big Creek-Newton County at the Carver Bridge. The National Park Service is paying a great deal of money to USGS to collect this information. The data station collects a suite of information including continuous Dissolved Oxygen measurements at 15 minute increments. These data provide a robust data set that greatly increases the precision and accuracy of water quality information compared to other streams in the State. Based on a conversation with ADEQ staff in February, ADEQ apparently does not have a model that is compatible or can incorporate a large data set such as the USGS information collected at Big Creek. ADEQ should consult with other state agencies, such as Washington State, that routinely uses automated data collection to evaluate its state water quality. With the assistance from other states that have implemented these types of programs, a robust assessment could be undertaken to determine whether or not this stream is impaired with respect to dissolved oxygen and other pertinent available data.

In closing, the public is well aware of unfortunate and recent examples, such as Flint, MI, Toledo, OH, and the Dan River in North Carolina, where state and federal agencies did not conduct an adequate assessment or analysis to detect or prevent tragic incidents that poisoned our people and polluted our streams. The Buffalo National River is listed in the highest category of protection in this state-Extraordinary Resource Waters. The public should be well informed, understand how decisions are made, the criteria used, and actions taken or planned to be taken to protect our economically and environmental valuable resources. Please provide the transparency and accountability to the people of Arkansas and protection to our water resources in our state.

Thank you.

Brian Thompson
3428 E. Wyman Road
Fayetteville, AR 72701

The following comments were spoken by Brain Thompson:

I'm speaking for myself today. Basically I'm aware that those same three tributaries on the Buffalo National River were not included on the 303(d) list and I was hoping to talk to some ADEQ personal today and understand what sort of mitigation steps were going to be taken. What's really troubling me is that the National Park Service provided this information back in October and to my knowledge there really hasn't been a response on the issue. And when I talked to personal today they say well it's not in our hands it's in the directors hands so we're going on six months. We're talking about a resource that drives 56 million dollars in 2014 to the Buffalo gateway communities. Newton and Searcy county tax bases depend on these. This industry, I mean, it's an economic issue. And so I'm respectfully asking, as part of my statement, I'm asking the director to come out with a response.

Thank you very much.

Gordon Watkins
HCR 72 Box 34
Parthenon, AR 72666

The following comments were spoken by Gordon Watkins:

I am speaking today on behalf of the Buffalo River Watershed Alliance. I'd like to echo the comments that have been previously made regarding the request by the Buffalo National River to have three tributaries designated as impaired streams. I think that regardless of the bureaucratic requirements of the 303(d) listing that one of the most trusted and reliable sources of data for the Buffalo National River has raised a red flag. And I think those warnings should be heeded by ADEQ and it behooves the agency to follow up on those warnings. And so we've been told today that that matter is in the hands of the director and so my request is that the director of the agency require increased monitoring's to follow up on those warnings that have been raised by the Buffalo National River. Thank you.