



United States Department of the Interior

NATIONAL PARK SERVICE

Buffalo National River
402 N. Walnut, Suite 136
Harrison, AR 72601

IN REPLY REFER TO

1.A.2

February 25, 2016

Becky Keogh

Director

Arkansas Department of Environmental Quality

5301 Northshore Drive

North Little Rock, AR 72118-5317

Dear Director Keogh:

As Superintendent of Buffalo National River, I am required to manage the park in such a way that it conserves the unique scenic and scientific resources and preserves the Buffalo River as a free-flowing stream for the benefit and enjoyment of present and future generations (Public Law 92-237). Water based recreation such as canoeing, swimming, and fishing are primary recreational pursuits enjoyed by our visitors. Clean, clear water is one of the significant scenic and scientific resources of the national river and is vital to maintain. Most park visitors who see the river when it is not in flood stage remark about the clear waters. In addition, the Buffalo River downstream of the Erbie low water crossing is Designated Critical Habitat for the Rabbitsfoot mussel (*Quadrula cylindrica cylindrica*), a species listed as Threatened under the Endangered Species Act (ESA). The Buffalo River is also home to the Endangered Snuffbox mussel (*Epioblasma triquetra*). Buffalo National River provides roosting and foraging habitat for the Endangered Gray bat (*Myotis grisescens*), Indiana bat (*M. sodalis*), Ozark Big-ear bat (*Corynorhinus townsendii ingens*) and the Northern Long-eared bat (*M. septentrionalis*) which is listed as Threatened. In addition to this, the Buffalo River is considered a Blue Ribbon Smallmouth Bass stream by the Arkansas Game and Fish Commission, and provides roosting and foraging habitat for the Bald Eagle (*Haliaeetus leucocephalus*) protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c).

As the delegated authority for implementing the Clean Water Act, the NPS relies upon your agency to ensure the resource of clean, clear water is not diminished. I understand that ADEQ sent out a letter on May 26, 2015 asking for information by Friday July 31, 2015. We cannot find a copy of that letter in our files, so I presume we did not receive it. On October 6, 2015, I sent a letter (Attachment 2) to Arkansas Department of Environmental Quality (ADEQ) asking that you consider placing three tributaries of the Buffalo River on the Impaired Waterbodies List pursuant to Section 303(d) of the Clean Water Act. To date, I have not received any formal correspondence relative to that request. My staff has reviewed the draft 303(d) streams list published on your website

(ADEQ, 2016) and see that these three streams are not in the draft list. I would like to receive documentation explaining why these streams were not listed in the draft 303(d) list.

My staff has reviewed the 2008 303(d) list published on your website (ADEQ, 2008) as this appears to be the latest 303(d) list which received a Record of Decision from the United States Environmental Protection Agency (USEPA, 2008). There appear to have been two segments of the Buffalo River and two tributaries listed as impaired at that time.


1. Reach 11010005-001-4J is the lower 11.3 miles of the Buffalo River which was impaired for aquatic life because of temperature. This was based upon NPS data collected at site BUFR09.
2. Reach 11010005-005-4J consists of 6.9 miles of the Buffalo River which was impaired for aquatic life because of low dissolved oxygen. This was based upon data collected by ADEQ at site WHI0049A.
3. The lower 2.6 miles of Big Creek (Reach 11010005-027-4J) was listed as impaired for aquatic life because of low dissolved oxygen. This was based upon NPS data collected at site BUFT18.
4. 23.9 miles of Bear Creek (Reach 11010005-026-4J) was listed as impaired for agricultural and industrial uses because of total dissolved solids based upon data collected at site UWBRK01+.

The current list does not show either reach of the Buffalo River in the table showing streams removed from the list in 2016 (ADEQ, 2016b) or the table showing the draft list of impaired waterbodies for 2016 (ADEQ, 2016a). Since the 2010, 2012, and 2014 lists do not appear to have been approved by an EPA Record of Decision, would ADEQ still need to list these two segments of the Buffalo River in one or the other table? Can you provide me with documentation to show why these streams were removed, and that their removal was appropriate?

Buffalo National River is the first National River, designated by Congress on March 1, 1972 (Public Law 92-237; 16 U.S.C. 460m-8 et seq.) to conserve and interpret an area containing unique scenic and scientific features, and 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. In addition, National Park Service Management Policy (2006) specifically calls for park units to work with the appropriate governmental bodies to obtain the highest possible standards available under the Clean Water Act for the protection of park waters; and take all necessary actions to maintain or restore the quality of surface waters and groundwaters consistent with the Clean Water Act and all other applicable federal, state and local laws and regulations. We would very much like to work with you collaboratively in support of these values and this important Act. If the ADEQ does not believe a 303d listing to be appropriate, we would like to discuss other mechanisms to address the impaired water quality.

Thank you for your attention to this matter. I look forward to receiving your response.

Sincerely,



Kevin G. Cheri
Superintendent

Attachment 1: References Cited

Attachment 2: October 6, 2015 letter to ADEQ

Cc: Nancy Finley
Associate Regional Director
Natural Resource Stewardship and Science
National Park Service
Midwest Region
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Omaha, Nebraska 68102-4226

Bill Honker
Director, Water Division
USEPA Region 6
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Dallas, Texas 75202-2733

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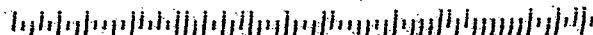
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~~Becky Keogh, Director~~
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USGS 07055814 Big Creek at Carver, AR

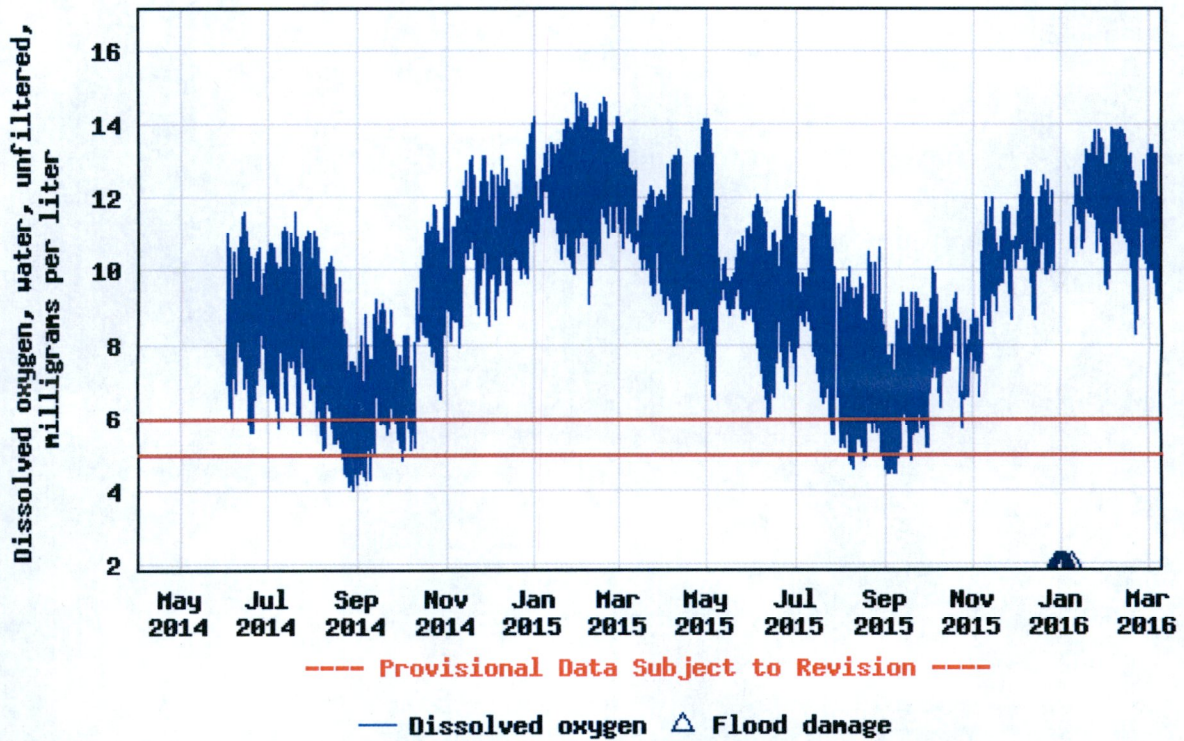
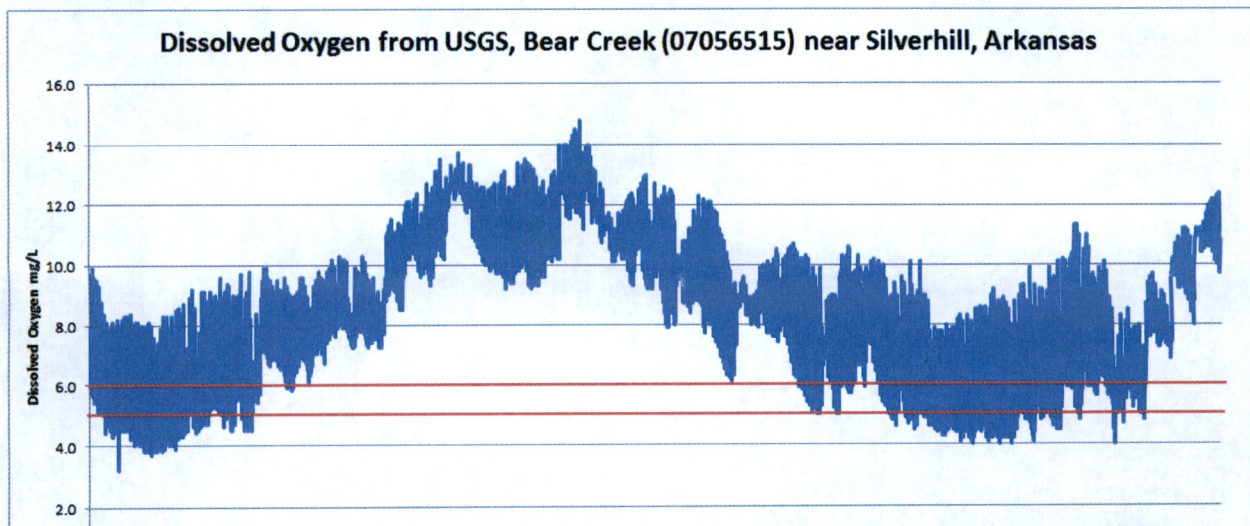


Figure 3: Station BUF-T06 Dissolved Oxygen data June 2014 to March 2016



We would like to point out that while the Buffalo River is an ERW under Reg. 2, the Regulations implementing the Clean Water Act consider the Buffalo River, and its tributaries (at least those included within the boundary) to be outstanding National resource waters:

Where high quality waters constitute an outstanding National resource, such as waters of National and State parks and wildlife refuges and waters of exceptional recreational or ecological significance, that water quality shall be maintained and protected. [emphasis added] [40 CFR§131.12(a)(3)]

Furthermore, Reg. 2.302(A) describes Extraordinary Resource Waters as:

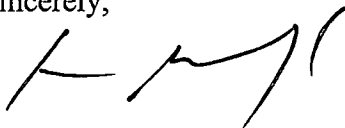
This beneficial use is a combination of the chemical, physical, and biological characteristics of a waterbody and its watershed which is characterized by scenic beauty, aesthetics, scientific values, broad scope recreation potential and intangible social values. [emphasis added]

This indicates that the watershed of the all of the Buffalo River should be considered part of the ERW and should be held to the highest water quality standards.

Buffalo National River hosted 1.36 million visitors in 2014. A large percentage of these visitors are interested in water-based, primary contact recreation and should expect the water quality to be high, whether it is the Buffalo River or one of its tributaries. We owe it to our visitors to hold these tributaries to the highest standards.

We look forward to collaboratively resolving this issue.

Sincerely,



Kevin G. Cheri
Superintendent

Cc: Laura Hunt, EPA, Region 6
Kane Webb, Director, Arkansas Parks and Tourism
Nathaniel Smith, MD, Director, Arkansas Department of Health
Mike Knoedl, Director, Arkansas Game and Fish Commission

¹ Maner, M. and Mott, D., 1991. Mill Creek Survey: Arkansas Department of Pollution Control and Ecology, Little Rock, Arkansas.

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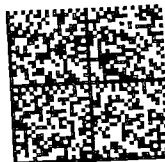
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