

RE: Proposed 2018 Impaired Waterbodies List  
ADEQ Headquarters  
5301 Northshore Drive  
North Little Rock, AR, 72118  
[WaterbodyComments@adeq.state.ar.us](mailto:WaterbodyComments@adeq.state.ar.us)

Re: 303d Waterbody Comments

September 10, 2018

The ADEQ promotes itself as the agency who says “we protect, enhance, and restore the natural environment for the well-being of all Arkansans.” This motto says for the well-being of ALL Arkansans, not a handful of corporate agriculture growers, not for a corrupt Brazilian company, but for Arkansans.

The Buffalo National River is an environmental treasure as well as a money maker for Arkansas. In 2016, tourism from the draw of the Buffalo, created 1200 job, and generated over \$77 million dollars in the local economy. The river is the golden goose for Newton and Searcy counties. The Buffalo and all the tributaries that feed this glorious river should have the highest protection in the nation-especially since this was the nation’s first national river.

But this agency-ADEQ-has not protected this gem of the environment and job creator-it has enabled and welcomed a huge polluter to the neighborhood. The result of this decision is a large area of the Buffalo and Big Creek-the 5<sup>th</sup> largest tributary are now deemed “IMPAIRED”. These river sections correlate directly to the nutrient pathways identified from the 2014 dye tracing investigations led by Dr. Van Brahana. The results of these studies were published in 4 peer reviewed journals.

In 2016, we presented the results of the dye tracing study and noted the high E. coli levels gathered from the BCRET team. ADEQ dismissed these data as “anomalous”. Finally, ADEQ can no longer deny this information. Now instead of taking the correct action that “would protect the natural environment for all Arkansans” in your motto, ADEQ has decided to pursue an ineffective and inappropriate path--to hide behind and delay action using the Buffalo River Watershed Management Plan (BRWMP). The BRWMP is a smoke screen to the public and create the appearance that Governor Hutchinson and Becky Keogh are acting to clean up the Buffalo. Nothing could be further from the truth!

During multiple BRWMP meetings, the environmental community and numerous concerned citizens advocated for investigation and inclusion of Big Creek in the report, but were repeatedly told that “permitted” facilities did not qualify for inclusion. C&H hog operation is a permitted facility-operating under an almost 2-year old expired permit. Now ADEQ wants to use this report that DOES NOT apply to Big Creek as a reason for listing the impairment as a 4b. These programs are defined as VOLUNTARY, with NO FUNDING, and again does not apply to PERMITTED facilities as noted below for the following reasons:

- 1) The BRWMP cannot address point-source contamination. “*The goal of the priority watershed program is to reduce nonpoint source pollutants” C&H is currently operating under an NPDES CAFO permit. CAFOs are point sources, as defined by the CWA [Section 502(14)]*
- 2) The BRWMP cannot address regulated facilities. C&H is currently operating under an expired NPDES permit and has applied for two other regulatory permits.

- 3) The BRWMP is voluntary and non-regulatory and any best management practices which might be implemented are not “*required by local, state, or Federal authority*” and do not comply with 40 CFR 130.7 (b)(1).
- 4) The BRWMP has no investigative or enforcement authority and is not stringent enough to comply with 40 CFR 130.7 (b)(1).
- 5) The BRWMP prioritizes six specific tributaries, which do not include Big Creek or the impaired segments of the Buffalo. In spite of repeated requests by our organization and other stakeholders to include Big Creek because we knew the current data was forthcoming, it was denied priority status due to “insufficient data”.
- 6) The BRWMP “*provides a framework for landowners, communities, and organizations to voluntarily undertake water quality projects in the watershed and improve their ability to solicit and secure funding and assistance for these projects from various government and private sources.*” In other words, reliance on the BRWMP absolves ADEQ or the state from any responsibilities for implementing corrective actions or exercising enforcement authority. It is solely dependent on voluntary actions by the private sector and, again, does not comply with 40 CFR 130.7 (b)(1).

Our River is DYING and so are the jobs that depend on tourists. You can't see pathogens such as E. coli or low dissolved oxygen. But you can see Algae. You can see dead fish. This year is by far the largest algal bloom on record, at least 70 miles long. The health as well as the image of the Buffalo is endangered. **Identifying the sources of pollution and immediately addressing these sources should be the highest priority of this agency and supported by Governor Hutchinson.**

Placing these impaired segments in Category 4b is a calculated move to not only avoid EPA scrutiny which would come with development of TMDLs, but worse, it absolves ADEQ of responsibility for directly addressing threats to our state's most treasured stream. This is unacceptable. **Categorizing these impairments as a CATEGORY 5 is the appropriate designation.**

Please provide an example where using a voluntary management plan with no funding to clean up a stretch of river declared “impaired” and place on the EPA's 303(d) list in the 4b category for low dissolved oxygen and high E. coli that is being contaminated by a permitted facility has been successful. If you are able to find such an example, please cite the source of the report and all details surrounding this approach including funding amounts and sources, agencies involved and number of years it took to achieve its designated use in the most protected category and its associated water quality.

**Clean up the Buffalo and stop your obfuscation immediately!**

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