

VIA electronic delivery (ImpairedWaterbodies_Comments@adeq.state.ar.us)

March 8, 2016

Mr Jim Wise
Water Division
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, Arkansas 72118-5317

Re: Draft 2016 Impaired Waterbodies List

Dear Mr Wise,

Please accept the following comments from the Buffalo River Watershed Alliance (BRWA), submitted on behalf of over 1,200 supporters whose mission is to preserve and protect the pristine water quality of the Buffalo National River (BNR).

Our organization is particularly concerned with the presence of a 6,500-head swine CAFO located on Big Creek, Newton County, near Mt. Judea, and its impact on the Buffalo National River located a few miles downstream at Carver. We are concerned that waste from this facility is making its way into ground and surface water and that it is negatively impacting Big Creek and the BNR.

Recent studies have shown that nitrate levels downstream of the facility are rising and data collected by USGS and the National Park Service (NPS) in Big Creek at Carver have shown decreasing dissolved oxygen (DO) levels. Low DO is an indicator of nutrient loading and we believe it is directly related to millions of gallons of swine waste being applied on shallow soils atop karst substrata, leaching into Big Creek and underlying groundwater, and making its way to the BNR.

On October 6, 2015, NPS submitted a letter to Director Keogh recommending that Big Creek should be included on the 303(d) list of impaired streams due to these decreased DO levels. In addition, NPS recommended that two other tributaries of the BNR should also be included on the 303(d) list – Mill Creek impaired for elevated E. coli levels, and Bear Creek for decreased DO levels. According to Freedom Of Information Act requests by our organization, Director Keogh has not responded to this letter from six months ago and none of these streams are included on the 2016 Draft impaired Streams list (with the exception of Bear Creek which has been declared impaired for TDS for some years).

During the public presentation on this matter by ADEQ staff on March 1, 2016, it was stated that the NPS data did not fall within the Period of Record for consideration for the 2016 303(d) list. We find this hard to accept since NPS/BNR has long been a reliable

and trusted source for data upon which ADEQ has depended for assessing water quality of the BNR and its tributaries. ADEQ has access to many years of historical data for the BNR and to now ignore these warnings from a trusted partner is unacceptable.

It was also said at this meeting that while the BNR is an Extraordinary Resource Water (ERW), these three tributaries in question are not ERWs and therefore are subject to less stringent impairment criteria. We find this position untenable. The sampling locations of these streams are near their confluences with the BNR and their waters coningle, particularly during periods of high water which occur frequently during the peak tourism seasons of spring, early summer and fall, when primary contact through swimming and canoeing, kayaking, camping and other recreational activities are at their peak. Aside from sampling locations, these creeks, like all tributaries, have a direct influence on the quality of their receiving stream, the BNR, and therefore should be subject to the same impairment criteria. We believe that ERW criteria should apply to *all* streams within the watershed of an ERW, not just to the designated ERW itself. An ERW is nothing if not the sum of its tributaries.

In disregarding the red flags being raised by NPS with regard to these three tributaries and their impact on the BNR, ADEQ is choosing to ignore the significance of the BNR to the region, the state and the nation. The BNR, our nation's first National River, is an economic engine for one of the poorest regions of the state and its allure to tourists and outdoor enthusiasts from across the nation is due in large part to the perception of its wild, pristine and unspoiled quality. To allow known impairment to go unchecked is irresponsible and violates the mission of ADEQ to "protect enhance and restore the natural environment for the well-being of all Arkansans".

Regardless of the Period of Record or other intricacies of the 303(d) program, ADEQ has a responsibility to follow up on warnings of impairment to the water quality of the Buffalo National River, especially when these warnings come from long-trusted and reliable sources such as the NPS and USGS. Whether or not Big Creek, Mill Creek or Bear Creek are included on the 2016 303(d) list is secondary to the larger issue of impairment of the BNR. ADEQ first and foremost should take heed of the NPS warnings, increase its monitoring of these streams, take all necessary steps to determine the sources of impairment and eliminate their impact on the Buffalo National River.

Furthermore, it is discouraging to know that, since 2008, ADEQ's recommendations for 303(d) listings have not been approved by the Environmental Protection Agency (EPA) due to the inability or unwillingness of ADEQ to comply with federal standards. This is unacceptable and stands in the way of the state's ability to address and correct impairment of Arkansas lakes, streams and groundwater. ADEQ should make every effort to bring its regulations into compliance with federal requirements as soon as possible so that it can properly protect the waters of the state.

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