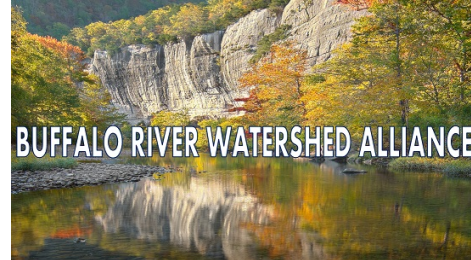




WHITE RIVER
WATERKEEPER®



SIERRA CLUB
ARKANSAS CHAPTER



March 7, 2018

Dear Representatives and Senators:

Our organizations have serious concerns with draft legislation being circulated that places all of Arkansas's waters at risk for pollution, sets an unjust precedent and circumvents due process of law.

Our main concerns with the draft legislation are that it ...

Weakens water quality protections now and in the future. It creates a loophole to allow a facility to obtain a permit under a less restrictive general permit that must be renewed and then switch to a permanent individual permit that requires higher standards for approval without

meeting those required standards. This is not protective of our natural resources and creates an ineffective and convoluted permitting regime. It places all of our waters at risk along with the businesses and families who rely on them. Specifically, this legislation threatens the crown jewel of Arkansas's tourism industry and livelihoods of all the families who have invested their savings and lives into businesses in the Buffalo River Watershed.

Is broadly written but appears to be special legislation intended to cover C&H Hog Farm and sets an unjust precedent. In 2012 C&H Hog Farm elected to apply for an operating permit under Arkansas Pollution Control and Ecology Commission Regulation 6 general CAFO permit rather than the Regulation 5 individual permit that has been used by all other hog CAFOs in the state. C&H is the only facility to ever seek and operate under a Reg. 6 permit. By electing to use Reg. 6 C&H was not required to conduct a thorough public notice or meet the siting requirements necessary to receive a Reg. 5 permit. In 2016 ADEQ did not renew the Reg. 6 general permit stating "only one facility (C&H) had received coverage during the five-year term of the General Permit. ADEQ determined such limited use was inconsistent with the intent of a general permit and, thus, did not warrant renewal." However, before this decision, C&H voluntarily sought coverage under Reg. 5. Ultimately, C&H did not challenge the decision to not renew the Reg. 6 permit and was denied a Reg. 5 permit because the application did not include the required information of a site investigation and other studies required for a CAFO in a karst environment. This legislation proposes to create a loophole to override ADEQ's denial of the Reg. 5 permit. It also changes the Reg. 5 permitting requirements that all other hog CAFOs have had the burden of meeting. This is not fair to other farmers who have followed the well defined process or Arkansans who enjoy and rely on quality water.

Circumvents due process. An appeals process is currently underway with the Arkansas Pollution Control and Ecology Commission. The Commission is appointed by the Governor to make decisions on issues such as C&H's appeal of the permit denial. The Commission has the background and expertise to provide a fair process for all stakeholders in the permit appeals process. This legislation establishes a precedent for the legislature to be the permitting authority, a role that improperly shifts the separation of powers and sets the state up for uncertainty and unfairness in our permitting programs.

We strongly support responsible agriculture and the vital role it plays in our lives and economy. The appeals process underway for C&H Hog Farm's permit denial provides the appropriate pathway to find a solution to this issue. Legislation that weakens water quality protections, sets unjust precedents and circumvents due process is never a good solution. We ask you not to support such legislation.

Thank you for considering our concerns on this draft legislation.

Arkansas Canoe Club
Arkansas Citizens First Congress
Arkansas Natural Sky Association
Buffalo Watershed Alliance
Friends of the North Fork and White Rivers

North Arkansas Fly Fishers
Ozark River Stewards
Ozark Society
Sierra Club, Arkansas Chapter
White River Waterkeeper