

February 23, 2017

Ms. Becky Keogh
Director
Arkansas Department of Environmental
Quality
5301 Northshore Drive
Little Rock, AR 72118-5317
Email: keogh@adeq.state.ar.us

VIA U.S. MAIL AND EMAIL

Re: C & H Hog Farms, Inc. Regulation 5 Draft Permit - Number 5264

Dear Director Keogh:

Thank you for the opportunity to comment on the draft Regulation 5 permit for C & H Hog Farm, Inc.

The Arkansas Department of Environmental Quality (ADEQ) in 2012 issued a National Pollution Discharge and Elimination System (NPDES) General Non-Stormwater permit to C & H Hog Farm, Inc. to operate a confined animal feeding operation (CAFO) in the Buffalo River watershed. According to ADEQ's website, "General permits provide a streamlined National Pollutant Discharge Elimination System (NPDES) permitting process for certain categories of industrial discharges. A facility seeks coverage under an applicable permit rule instead of an individual permit."

C & H Hog Farm, Inc. by legal definition (40 CFR 122.23) is a large concentrated animal feeding operation (CAFO). Under the Clean Water Act, CAFOs are considered point sources (U.S.C. 33 Section 1362 (14)); point sources are regulated by the NPDES permitting program.

The rationale on which ADEQ made its decision to permit the first large CAFO in the Buffalo River watershed is outlined in the "FACT SHEET FOR 2nd DRAFT GENERAL PERMIT NO. ARG590000, CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO) IN THE STATE OF ARKANSAS"

The Fact Sheet states in part:

The State of Arkansas has been authorized by the U. S. Environmental Protection Agency to administer the National Pollutant Discharge Elimination System (NPDES) Program in Arkansas, including the issuance of general permits to categories of dischargers under the provisions of 40 CFR 122.28, as adopted by reference in Arkansas Pollution Control and Ecology Commission Regulation (Reg.) 6.104.

Under this authority, ADEQ may issue a single general permit to a category of point sources located within the same geographic area whose discharges warrant similar pollution control measures. Specifically, in accordance with 40 CFR 122.28, the ADEQ

is authorized to issue a general NPDES permit if there are a number of point sources operating in a geographic area that:

- 1.1. involve the same or substantially similar types of operations;
- 1.2. discharge the same types of wastes;
- 1.3. require the same effluent limitations or operating conditions;
- 1.4. require the same or similar monitoring requirements; and
- 1.5. in the opinion of the Director, are more appropriately controlled under a general permit than under individual permits.

It is clear that ADEQ made a mistake in issuing a Regulation 6 NPDES General Permit to C & H Hog Farm, Inc. to operate and discharge waste in the Buffalo River watershed. However, the Regulation 5 No Discharge permit is not the remedy for a point source large concentrated animal feeding operation that stores and land applies untreated waste in amounts comparable to a city the size of Harrison, AR.

According to ADEQ, the NPDES CAFO General Permit and the Reg 5 draft permit allow C & H Hog Farm, Inc. to discharge in a 25 year, 24 hour storm event; neither permit ensures adequate safeguards to protect the Buffalo River environs, including Big Creek and the Buffalo National River, from the impacts, i.e., discharges from waste storage ponds and/or fields in karst terrain, of a large industrialized point source facility.

The distinction between CAFO permits and Regulation 5 permits related to karst investigation is noted in a 2013 communication between ADEQ personnel and the Natural Resource Conservation Service. (Attachment)

Nonetheless, ADEQ failed to conduct the requisite geotechnical protocol/investigation in accordance with the Field Office Technical Guide and the Animal Waste Management Field Handbook with regard to C & H Hog Farm, Inc.

Further, ADEQ makes no mention of karst in its Reg 5 draft permit for C & H Hog Farm, Inc. A Freedom of Information Act request to ADEQ for communications (including memos, notes and/or reports) related to karst and/or karst features with regard to C & H Hog Farm, Inc. for the time period August 2016 to February 22, 2017 has produced no results to date.

The Regulation 5 No Discharge permit for C & H Hog Farm, Inc. is a mistake. I urge ADEQ to deny the permit.

Respectfully,
Dane Schumacher

Cc:
Katherine McWilliams

