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September 12, 2016

Ron Curry, Regional Administrator
U.S. Environmental Protection Agency - Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

Re: C&H Hog Farm - Mt. Judea, Arkansas
Investigation of Possible Release of Wastes

Dear Regional Administrator Curry:

I am writing on behalf of The Buffalo River Coalition, which is comprised of three environmental organizations (Buffalo River Watershed Alliance, Arkansas Canoe Club and the Ozark Society) dedicated to protecting the Buffalo National River, requests your intervention into and oversight of an investigation currently scheduled for September 19, 2016, by the Arkansas Department of Environmental Quality (ADEQ) at the C&H Hog Farm near Mt. Judea, Newton County, Arkansas, to determine if waste is leaking from waste storage lagoons into groundwater. The C&H facility is located only 6 miles upstream from the Buffalo National River, our nation's first national river.

The C&H Hog Farm received a general permit to conduct a large confined animal feeding operation in 2013. Due to widespread public concern regarding the operation of a hog CAFO adjacent to Big Creek, a tributary of the Buffalo River, a state-sponsored group of scientists in the University of Arkansas Department of Agriculture Extension Service, together with a few from the U.S. Geological Survey, were appointed to a Big Creek Research and Extension Team (BCRET) to monitor the effect of the facility for a five-year period.

In March 2015, Oklahoma State Geoscience professor Todd Halihan, PH.D., under contract with the BCRET, conducted an Electrical Resistivity Imaging (ERI) investigation near two hog waste storage lagoons at C&H that indicated to Dr. Halihan a likely "major fracture" and "movement of wastes." However, the results of these investigations were not provided to the ADEQ by BCRET, but rather were discovered by the Buffalo River Watershed Alliance by reviewing data obtained through a Freedom of Information Act request to BCRET. That data included an email exchange between several members of the BCRET expressing concern about the possible "major fracture" and "movement of waste" below one of the manure storage lagoons.

On April 29, 2016 this information was presented to the Arkansas Pollution Control and Ecology Commission by the Buffalo River Watershed Alliance (BRWA)¹. BRWA and some members of the coalition requested that further investigation be conducted to determine if the manure lagoons were leaking. After a protracted discussion with BCRET as to why they did not provide this information to state officials and thousands of letters sent to Arkansas Governor Asa Hutchinson, ADEQ agreed that further testing was necessary. ADEQ selected Harbor Environmental Inc. (HEI) to conduct the study.

A Work Plan has been developed by HEI² and approved by ADEQ, but it contains deficiencies that the Buffalo River Coalition and its expert consultants believe to be critical to the integrity and reliability of the investigation, particularly in view of the fact that the C&H Facility is located over karst geology.

Under the Work Plan, only one (1) boring would be drilled to determine if the lagoons were leaking. Our geological experts advise us that a single borehole is inadequate to determine if manure is leaching into groundwater – the equivalent of finding a “needle in a hay stack,” especially in the karst terrain that underlies the Hog Farm – and is scientifically indefensible. EPA’s RCRA Ground-Water Monitoring Technical Enforcement Guidance Document³ recommends at least 3 boreholes be drilled to determine if contamination is occurring. In addition, the majority of the expense incurred is transportation and set up of the drill rig. The Buffalo River Coalition has requested that 3 boreholes be drilled at the location where the imaging from the ERI study highly suggest a movement of hog waste, but ADEQ has insisted on only one borehole.

Further, there is no requirement for evaluation of groundwater flow. EPA’s RCRA Ground-Water Monitoring Technical Enforcement Guidance Document⁴ recommends evaluating groundwater flow, but the current HEI work plan does not include this activity. In a karst geology, the groundwater flow is unpredictable. Nevertheless, the BCRET Team has relied heavily on a trench located downgradient of the waste ponds to detect leakage from the ponds without knowing the geology underneath the site. Determining groundwater flow is a critical component in evaluating the geology underneath the manure storage lagoons.

Finally, there is a need for federal oversight. The current work plan allows an ADEQ selected geologist and ADEQ staff to be present during drilling. However, ADEQ is not an impartial body in this investigation, as ADEQ permitted this facility under a general permit in 2012, and there is widespread public opinion that ADEQ cannot be objective in its conducting or evaluating the results of the investigation.

¹ <http://buffaloriveralliance.org/resources/Documents/ERI%20Powerpoint.pdf>

² <https://www.adeq.state.ar.us/water/bbri/c-and-h/pdfs/final-drilling-study-work-plan-8-26-16.pdf>

³ https://www.epa.gov/sites/production/files/documents/rcragwguiddoc-rpt_0.pdf

⁴ Ibid

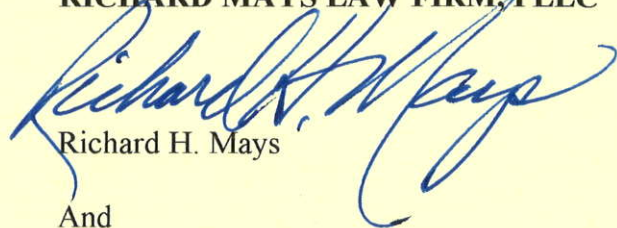
For these reasons, the Buffalo River Coalition is requesting an EPA representative who is experienced in hazardous waste remediation, drilling protocols and methodology, groundwater contamination, and familiar with karst geology to be present during the entire investigation to ensure the scientific integrity and validity of the study. Further we request a revised work plan be developed that requires at least 3 boreholes to be drilled and includes evaluating groundwater flow.

EPA is the federal agency responsible for oversight of state actions. We request that you exercise this oversight authority and fully engage your expertise and resources concerning the possible leaching of waste into the groundwater from the C&H Hog Farms, Inc. that may contaminate the Buffalo National River. Again, the current date of commencement of the investigation is September 19, 2016. The contact person at ADEQ is:

Mr. Caleb Osborne
Associate Director, Office of Water Quality
Arkansas Department of Environmental Quality
5302 Northshore Drive
North Little Rock, AR 72118-5317
(501) 340-8390.

Sincerely,

RICHARD MAYS LAW FIRM, PLLC

A handwritten signature in blue ink, appearing to read "Richard H. Mays", is written over the printed name.

Richard H. Mays

And

Philip E. Kaplan, Esq.
WILLIAMS & ANDERSON, PA
111 Center Street - Suite 2200
Little Rock, AR 72201

cc: Cc: Bill Honker, EPA, Director-Water Division, Region 6
cc: Kevin Cheri, NPS, Superintendent, Buffalo National River
cc: Becky Keogh, ADEQ, Director