

IN THE CIRCUIT COURT OF NEWTON COUNTY, ARKANSAS  
CIVIL DIVISION

FILED  
OFFICE OF THE CIRCUIT CLERK  
NEWTON COUNTY ARKANSAS

ARKANSAS DEPARTMENT OF  
ENVIRONMENTAL QUALITY

PLAINTIFF NOV 07 2017

vs.

CASE NO.: 51CV-17-51-1

10:44 A.M. \_\_\_\_\_ P.M.

PATRICK SANDERS

DEFENDANT

**COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF**

COMES NOW the Arkansas Department of Environmental Quality (ADEQ), by and through its attorneys, Tracy R. Rothermel, Basil V. Hicks III, and Stacie R. Wassell, and for its complaint and request for injunctive relief against Patrick Sanders ("Defendant") states the following:

**I. INTRODUCTION**

1. This matter is a civil action brought under the authority of the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101 *et seq.*, that seeks to enforce the statutes of the State of Arkansas and the Rules and Regulations of the Arkansas Pollution Control & Ecology Commission (APC&EC).

**II. PARTIES**

2. ADEQ is an executive agency of the State of Arkansas charged with administering and enforcing all laws, rules, and regulations relating to the Arkansas Water and Air Pollution Control Act, Ark. Code Ann. § 8-4-101, *et. seq.* ADEQ has authority under Ark. Code Ann. § 8-4-103(b) to institute a civil action in any court of competent jurisdiction to restrain any violation of, or compel compliance with, any rules or regulations promulgated pursuant to statute; affirmatively order that remedial measures be taken as may be necessary or appropriate to implement or effectuate the purposes and intent of the statutes; recover all costs and expenses in

enforcing or effectuating the provisions of the statute; and assess civil penalties for violations of these statutes. ADEQ's principle office is located at 5301 Northshore Drive, North Little Rock, Arkansas 72118-5317.

3. Defendant is doing business as an individual with a principal operating address of Rural Route 1, Box 238, Western Grove, Newton County, Arkansas, 72685. Defendant's facility is physically located on Newton County Road 50, within United States Geological Survey Hydrologic Unit Code (USGSHUC) 11010005. Defendant is not registered as a business with the Arkansas Secretary of State.

### **III. JURISDICTION AND VENUE**

4. This Court has subject matter jurisdiction over this matter under Ark. Code Ann. § 16-13-201. This Court has personal jurisdiction over Defendant as his principal place of business, and the subject of this action, is located in Western Grove, Newton County, Arkansas.

5. Venue is proper in this Court under Ark. Code Ann. §16-60-101.

### **IV. FACTUAL ALLEGATIONS**

6. Defendant owns and operates a hog farm (facility) located on Newton County Road 50, within United States Geological Survey Hydrologic Unit Code (USGSHUC) 11010005. (Exhibit A.)

7. The area within USGSHUC 11010005 constitutes the Buffalo National River Watershed as defined by APC&EC Reg. 5.901(A)(1) and Reg. 6.602(A)(1).

8. Defendant represented to ADEQ personnel that Defendant's facility houses and feeds more than 750 swine weighing over 55 pounds (lbs) each and has done so since August of 2015. (Exhibit B.)



9. ADEQ personnel observed at the facility swine housed in barns with substantial piles of animal wastes next to, in, and near the barns. ADEQ personnel observed liquid animal waste runoff leaving the facility and crossing the adjacent road. The direction of this runoff is toward Cedar Creek. Cedar Creek is by statutory definition "waters of the State" (Ark. Code Ann. § 8-4-102) and is also located within the Buffalo National River Watershed. (Exhibits A and B.)

10. Defendant represented to ADEQ personnel that approximately three feet of manure is piled in one of the barns at the facility. (Exhibit B.)

11. Defendant represented to ADEQ personnel that Defendant has been pushing animal waste out of the barns onto the surrounding ground. (Exhibit B.)

12. The management of this facility's waste is subject to regulation pursuant to APC&EC Regulation 5, Liquid Animal Waste Management Systems.

13. Alternatively, the management of this facility's waste is subject to regulation pursuant to the federal National Pollutant Discharge Elimination System (NPDES), 33 U.S.C. § 1342, as administered by ADEQ pursuant to APC&EC Regulation 6.

14. Defendant does not hold a permit issued by ADEQ to operate or maintain a liquid animal waste management system or for the management of this facility's waste.

15. Pursuant to APC&EC Regulation 5 and APC&EC Regulation 6, ADEQ shall not issue a permit to any confined animal operation within the Buffalo National River Watershed with 750 or more swine weighing fifty-five (55) lbs or more.

### **III. VIOLATIONS OF LAW**

16. Ark. Code Ann. §8-4-217(a)(3) states that it shall be unlawful for any person to violate any provisions of this chapter or of any rule, regulation, or order adopted by the Arkansas

Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the Arkansas Department of Environmental Quality.

**Defendant is Operating a CAO in Violation of APC&EC Regulation 5**

17. Plaintiff incorporates by reference and realleges paragraphs 1 through 16 of this Complaint.

18. The purpose of APC&EC Reg. 5 is to establish standards and procedures for confined animal operations using liquid animal waste management systems and for the issuance of permits for land application of such waste as necessary to prevent pollution to waters of the state. (APC&EC Reg. 5.102)

19. Pursuant to APC&EC Reg. 5.201, a confined animal operation (CAO) is defined as a facility where livestock or other animals will be stabled or confined and fed or maintained and where crops, vegetation, forage growth or post-harvest residues are not sustained in the normal growing season over significant portions of the facility. Defendant is housing swine in metal barns where no crops, vegetation, forage growth, or post-harvest residues are sustained in the normal growing season.

20. Pursuant to APC&EC Reg. 5.201, liquid animal waste management system means any system used for the collection, storage, distribution, or disposal of animal waste in liquid form generated by a confined animal operation.

21. Pursuant to APC&EC Reg. 5.301, no CAO using a liquid animal waste disposal system shall be constructed or operated unless the owner has first obtained a permit from ADEQ. Defendant is storing animal waste in a barn and pushing animal waste out of the barns onto the surrounding ground. Defendant does not have a permit with ADEQ for this facility.



22. Pursuant to APC&EC Reg. 5.901(A)(1), ADEQ is prohibited from issuing permits for CAO's with 750 or more swine weighing 55 lbs or more located within the Buffalo National River Watershed. Defendant is housing 750 or more swine weighing 55 lbs or more, and the facility is located within the Buffalo National River Watershed. Therefore, Defendant is ineligible for a permit to operate the facility under APC&EC Reg. 5.

23. Defendant is operating a CAO without a permit and within the Buffalo National River Watershed in violation of APC&EC Reg. 5 and should be ordered to cease operations immediately and begin remediation of the site.

**Defendant is in Violation of APC&EC Reg. 6**

24. Plaintiff incorporates by reference and realleges paragraphs 1 through 23 of this Complaint.

25. Pursuant to APC&EC Reg. 6.102, an animal feeding operation (AFO) means a lot or facility where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any twelve (12) month period, and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. Defendant stables or confines and feeds or maintains the swine in metal barns where no crops, vegetation, forage growth or post-harvest residues are sustained in the normal growing season.

26. According to APC&EC Reg. 6.106(c), no person shall operate a facility, the operation of which would result in discharge of wastes into the waters of the State. Defendant operates this facility without any appropriately designed or permitted liquid waste management system and without any type of containment or procedures to ensure the waste does not enter waters of the

State. Liquid animal waste runoff has been observed flowing from the facility toward waters of the State.

27. Pursuant to APC&EC Reg. 6.102, a concentrated animal feeding operation (CAFO) means “an AFO that is defined as a Large CAFO or as a Medium CAFO pursuant to 40 C.F.R. 122.23 . . . .”

28. A medium CAFO is defined by 40 C.F.R. 122.23(b)(6)(i)(D) as a facility that stables or confines 750 to 2499 swine each weighing 55 pounds or more.

29. Pursuant to APC&EC Reg. 6.602(A)(1), ADEQ is prohibited from issuing permits for CAFO’s with 750 or more swine weighing 55 lbs or more located within the Buffalo National River Watershed. Defendant is housing 750 or more swine weighing 55 lbs or more, and the facility is located within the Buffalo National River Watershed. Therefore, Defendant is ineligible for a permit to operate the facility under APC&EC Reg. 6.

30. Defendant is operating a CAFO without a permit and within the Buffalo National River Watershed in violation of APC&EC Reg. 6 and should be ordered to cease operations immediately and begin remediation of the site.

**Defendant is in Violation of A.C.A. § 8-4-217(a)(2)**

31. Plaintiff incorporates by reference and realleges paragraphs 1 through 30 of this Complaint.

32. A.C.A. §8-4-217(a)(2) states that it shall be unlawful for any person to place or cause to be placed any sewage or other wastes in a location where it is likely to cause pollution of any waters of this state.

33. Defendant has been pushing swine waste out of the barns onto the surrounding ground because there was not enough room in the barns to store the swine waste.



34. Liquid animal waste runoff has been observed flowing from piles of swine waste at the facility, across a road, and towards waters of the State. Defendant operates this facility without any appropriately designed or permitted liquid waste management system and without any type of containment or procedures to ensure the waste does not enter waters of the State. Instead, Defendant places the swine waste where the liquid animal waste drains without controls.

**Defendant is Violating State Statutes and APC&EC Regulations and is  
Therefore Subject to Civil Penalties**

35. Plaintiff incorporates by reference and realleges paragraphs 1 through 34 of this Complaint.

36. A.C.A § 8-4-103(b)(4) authorizes the assessment of civil penalties not to exceed ten thousand dollars (\$10,000) per day for violations of any state statute as well as any rules or regulations promulgated by APC&EC.

37. Each day Defendant operates his facility without a permit and continues to place waste in such a place as to likely cause pollution to waters of the state is a violation of A.C.A §§ 8-4-217(a)(2) and (b)(1)(c), and APC&EC Reg. 5, or in the alternative Reg. 6, and he should be assessed a civil penalty of \$10,000 for each violation on each day he continues to operate.

**Defendant is Causing Irreparable Harm to the Environment**

38. Plaintiff incorporates by reference and realleges paragraphs 1 through 37 of this Complaint.

39. Defendant's unpermitted storage and disposal of liquid animal waste by pushing animal waste from the barns onto the ground resulted in a discharge of raw liquid animal waste into the Buffalo National River Watershed.

40. Defendant has no control mechanisms and took no actions to contain the animal waste or prevent the raw liquid animal waste from entering the Buffalo National River Watershed.

41. Unpermitted and unregulated discharges from a hog farm operating without any controls allow raw liquid animal waste that contains various pollutants including up to 100,000,000 fecal coliform bacteria per gram as well as Ammonia, Phosphorous, and other nutrients and microbes to be released into the environment.

42. When introduced to the waters of the state in the aforementioned manner, these pollutants can render the waters harmful or injurious to public health or to livestock, wild animals, birds, fish, or other aquatic life.

43. Both APC&EC Reg. 5 and ACP&EC Reg. 6 prohibit the issuance of new permits for facilities that house 750 or more swine weighing 55 lbs. or more in the Buffalo National River Watershed.

44. By operating this facility in the Buffalo National River Watershed, Defendant has violated multiple statutes and APC&EC Regulations. But for Defendant's violations, the swine at this facility and the waste they produce would not be in the Buffalo National River Watershed.

45. The piles of raw animal waste the Defendant placed in the watershed pose a continuing and imminent danger to the Buffalo National River Watershed.

46. ADEQ is the governmental body responsible for enforcing Arkansas's environmental laws and APC&EC Regulations, and therefore, serves the public interest in seeking compliance with those laws and regulations through this action.

47. ADEQ seeks a temporary injunction and to restrain Defendant's violation of state law and APC&EC Regulations pursuant to Ark. R. Civ. P. Rule 65. ADEQ is authorized to seek such remedies by A.C.A. § 8-4-103. There is no other remedy available to ADEQ to enforce the aforementioned laws and regulations other than an injunction due to Defendant's inability to obtain a permit within the Buffalo National River Watershed.



48. Based upon the facts and evidence presented, Plaintiff is likely to succeed on the merits of this action.

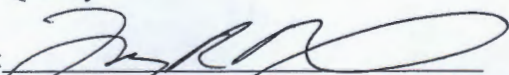
### PRAYER FOR RELIEF

WHEREFORE, ADEQ prays that this Honorable Court will grant the following relief:

- (A) Issue an immediate temporary injunction ordering Defendant to cease operations and to immediately remediate the area to ensure any further environmental damage is halted;
- (B) Issue a permanent injunction barring Defendant from operating an unpermitted hog farm within the Buffalo National River Watershed and to conclude any and all remaining remediation;
- (C) Assess civil penalties against the Defendant for every day he has operated in violation of the APC&EC Regulations;
- (D) Award costs and attorney's fees to ADEQ; and
- (E) For any and all other relief to which ADEQ may be entitled.

Respectfully Submitted,

Arkansas Department of Environmental  
Quality

By: 

Tracy R. Rothermel, ARB# 2003005  
General Counsel, ADEQ  
Stacie R. Wassell, ARB# 2016032  
Attorney, ADEQ  
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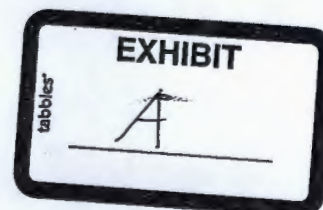
**AFFIDAVIT IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

STATE OF ARKANSAS:

COUNTY OF PULASKI:

Before me, the undersigned notary public, duly qualified and acting in and for this county and state, appeared Mary Barnett, satisfactorily proven to be the affiant herein, who stated the following under oath:

1. My name is Mary Barnett. I am over the age of 18 and capable of making this Affidavit. The facts stated in this Affidavit are within my personal knowledge and are true and correct.
2. I am employed as an Ecologist Coordinator in the Office of Water Quality of the Arkansas Department of Environmental Quality. I have been with the Department for approximately thirteen years and have been in my current position since 2013.
3. I earned a Bachelor of Science in Wildlife Ecology and Management and a Master of Science in Biology from Arkansas State University. See attached curriculum vitae.
4. I have reviewed the inspection report detailing the inspections performed on August 17, 2017 and October 4, 2017 at the facility located in Newton County Arkansas on County Road 50 near Western Grove, Arkansas.
5. I have confirmed that the line on the maps contained in the inspection report indicating the dividing line for the Buffalo National River Watershed was generated using the data for the Buffalo National River Watershed designated as United States Geological Survey Hydrologic Unit Code 11010005 as depicted by the Watershed Boundary Dataset (WBD). See attached metadata for the Watershed Boundary Dataset (WBD), wbdhu8\_a\_ar.
6. The maps with the Buffalo National River Watershed dividing line show the portions of the facility that are located in the Buffalo National River Watershed.






7. In the inspection report, each of the three locations where liquid from the facility was observed and documented flowing towards the south and crossing County Road 50 adjacent to the facility are within the Buffalo National River Watershed.

8. Cedar Creek is less than 150 yards from the southern border of the facility. Cedar Creek is within the Buffalo National River Watershed and waters from Cedar Creek flow to Davis Creek and then to the Buffalo National River.

**FUTHER AFFIANT SAYETH NOT.**

In witness whereof, I hereunto set my hand on this 6<sup>th</sup> day of November, 2017.

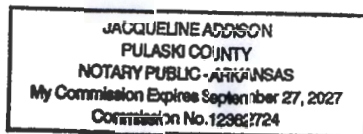
  
\_\_\_\_\_  
Mary Barnett, Affiant  
Ecologist Coordinator  
Arkansas Department of Environmental Quality

Subscribed and sworn to before me this 6<sup>th</sup> day of November, 2017.

  
\_\_\_\_\_  
Notary Public

My commission expires:

[SEAL]



**Mary C. Barnett**  
Ecologist Coordinator  
Arkansas Department of Environmental Quality  
5301 Northshore Drive  
North Little Rock, Arkansas 72118

**Education**

M.S. 2002 – 2004      Biology, Arkansas State University, Advised by Dr. Jerry Farris  
Thesis title: Life history and population biology of the Arkansas fatmucket  
(*Lampsilis powellii*).  
B.S., 2002              Wildlife Ecology and Management, Arkansas State University  
Advised by Dr. Jim Bednarz

**Relevant Work Experience**

Arkansas Department of Environmental Quality

Ecologist Coordinator (June 2013 – Present)

- Specific technical work, including Reg. 2, 305(b) report, 303(d) list, GIS, and WET testing are listed below under Program Coordination Section Manager title.
- Supervisory Duties
  - Delegate tasks to other water planning staff
  - Ensure other water planning staff are on task
  - Provide support to other water planning staff in the form of technical assistance, training, and directing research
  - Verify timesheet for 5 water planning staff
  - Conduct yearly Personnel Evaluations for 5 water planning staff
  - Work with branch manager, human resources, and staff to handle personnel issues if they arise
  - Assist with the hiring of new Office of Water staff
    - Prepare interview materials
    - Serve as part of panel that interviews and ranks applicants
- Serve on the steering committee for the DrainSmart storm drain mural educational program.

Program Support Manager/Ecologist (May 2008 – June 2013) and

Program Coordination Section Manger (November 2004- May 2008)

- Coordinate tri-annual review and update of state Water Quality Standards (Regulation No. 2)
  - Plan and set up meetings with the public regarding Water Quality Standards
  - Prepare and distribute meeting summaries and other materials
  - Facilitate communication between public workgroup members and the Department
  - Work with Legal on the review of water quality related items
  - Coordinate with Computer Services concerning website layout and content
  - Delegate tasks to Water Planning staff
- Assist with bi-annual preparation, formatting and revision of Integrated Water Quality Monitoring and Assessment Reports (305(b)) and Impaired Waterbodies List (303(d))
- Update, QA/QC, and create maps and GIS layers using ArcMap10 GIS program as needed for Office of Water for reports, Regulation No. 2, Permits Section, and presentations, including digitizing waterbodies and integration of latitude longitude data
  - Coordinate mapping projects with GIS Section.
- Assist with writing and revision of other reports as needed, including State Nutrient Plan, Quality Assurance Project Plans, and special projects
- Assist with the review of Water Effects Ratio (WER) and Biotic Ligand Model (BLM) work plans and final reports.
- Coordinate Whole Effluent Toxicity (WET) Program



- Upkeep of NPDES WET testing database and review WET test reports
  - Train other Water Planning staff to assist with this task
- Review and track Toxicity Reduction Evaluation (TRE) plans, quarterly, and final reports
- Provide assistance to NPDES permitted facilities and certified laboratories concerning WET testing
- Review NPDES permits for accuracy and provide assistance to Enforcement concerning WET testing
- Coordinate Ambient Toxicity Sampling
  - Coordinate sampling with the EPA Houston and ADEQ laboratories
  - Organize equipment and personnel for sampling events
  - Collect *in situ* water chemistry and collect water samples
- Fieldwork
  - Work with a team to collect *in situ* water chemistry and bacteria samples on a quarterly basis and as necessary for special projects
  - Work as part of a pair for calibrating, deploying, and retrieving data Sondes for 72 hour deployments.
  - Work with a team for macroinvertebrate collection, sorting, and identification.
  - Work with a team for fish collection using electroshocking and seining techniques
  - Conduct habitat analysis following US EPA Rapid Bioassessment Protocol (RBP) for wadeable streams
  - Collect periphyton samples using a ½ inch rubber delimiter.
  - Collect latitude/longitude data using Trimble GeoXM unit
    - Train Water Planning Staff on use of the Trimble GeoXM unit
- Advise Office of Land (Hazardous Waste) on water quality related projects
- As requested, conduct watershed education for students via demonstrations of the Enviroscope watershed model.

#### September 2002 – November 2004

THESIS RESEARCH DUTIES: Arkansas State University, Biological Science Program, State University, AR. Under direction of Dr. Jerry L. Farris.

- Maintained fish and mussels held at Mammoth Spring National Fish Hatchery, Mammoth Spring, AR.
- Propagated Federally Threatened freshwater mussel species, *Lampsilis powellii*.
- Performed status survey for *L. powellii* in the Ouachita, Saline, and Caddo Rivers, AR.
- Coordinated status surveys with AGFC, FWS, and NFS personnel.
- Supervised a summer intern during status surveys.
- Conducted *in situ* water chemistry and habitat analyses at survey sites.

GRADUATE RESEARCH ASSISTANT: Arkansas State University, Ecotoxicology Research Facility, State University, AR. Under the direction of Dr. Jerry L. Farris and Dr. Jennifer Bouldin.

- Conducted aquatic reference toxicity tests (Reference Toxicity Manager/Coordinator) necessary for maintaining state certification of laboratory for performing NPDES permit testing with *Daphnia pulex*, *Ceriodaphnia dubia*, and *Pimephales promelas* and subsequent statistical analysis using ToxCalc™.
- Performed annual Discharge Monitoring Report (DMR) testing and ToxCalc™ analysis.
- Assisted with contracted WET tests both chronic and acute test for NPDES permitted municipalities.
- Cultured *Selenastrum capricornutum*, *Chlorella sp.*, *Chlamydomonas reinhardi*, and *Ankistrodesmus falcatus* algae as food source for cladoceran test organisms and freshwater mussels.



- Assisted with set up and maintenance of sediment toxicity testing to include *Chironomus tentans* and *Hyalella azteca*.
- Followed Good Laboratory Practice and Quality Assurance / Quality Control guidelines.

### **Presentations**

- WET Testing, Common Concerns  
AWW & WEA Conference, April 27, 2015, Hot Springs, AR
- Toxicity Testing, What Happens IF...  
AWW & WEA Conference, April 30, 2012, Hot Springs, AR
- Update on Arkansas's Nutrient Criteria Development,  
Region 6 RTAG, February 10, 2010
- Update on Arkansas's Nutrient Criteria Development  
Region 4 & 6 Joint RTAG, September 15, 2008
- Water Quality & Biological Survey, *Nutrient Criteria*  
AWW & WEA Conference, April 29, 2008, Hot Springs, AR
- Update on Arkansas's Nutrient Criteria Development  
Region 6 RTAG, February 26, 2008
- Scott, M.C. J.L. Farris, J. L. Harris, A.D. Christian. 2005. Population Dynamics, Reproductive Behaviors, and Habitat Use by a Threatened, Endemic Arkansas Mussel, *Lampsilis powellii* (Lea, 1852). Freshwater Mollusk Conservation Society Symposium Poster Presentation, St. Paul MN.
- Scott, M.C., J.L. Farris, A.D. Christian J.L Harris. 2004. Propagation of the Arkansas Fatmucket, *Lampsilis powellii* (Lea, 1852). Arkansas Academy of Science Meeting, Jonesboro, AR.
- Scott, M.C., J.L. Farris, A.D. Christian J.L Harris. 2004. Potential host determination and propagation of the Arkansas Fatmucket, (*Lampsilis powellii*), from the Ouachita and Saline River drainages. Southern District American Fisheries Society Meeting, Oklahoma City, OK.
- Scott, M.C., J.L. Farris, A.D. Christian. 2003. Propagation of the Arkansas Fatmucket, *Lampsilis powellii* (Lea, 1852). Arkansas State Wildlife Society Meeting, Jonesboro, AR.

### **Poster**

- Arkansas Nutrient Criteria Development Plan. April 2006

### **Workshops**

Assisted with: WET Testing Workshop for Waste Water Treatment and Water Managers, ASU Ecotoxicology Research Facility. May 15-18, 2007.

### **Workgroups**

- 2008 – Present NHD Technical Working Group
- 2007 – 2010 Regional Technical Advisory Group (Nutrients)
- 2004 – Present NPS Management Task Force

### **Computer Program Knowledge**

- Microsoft Word, Microsoft Excel, Microsoft Access, Microsoft Outlook, and Microsoft Power Point
- ArcMap10™
- Adobe Acrobat Writer & Reader



### **Professional Development Courses**

2014	Interpersonal Communications
2014	ADA Training
2013	THE Course
2013	Grievance Preventing and Handling
2012	Project WET/WILD/PLT
2010	Microsoft Office 2010
2007	Business Writing and Grammar Skills
2007	Toxicity Identification and Reduction Evaluations
2007	Microsoft Access 2003-Level 2
2007	US EPA Water Quality Standards Academy
2006	Freshwater Biomonitoring Using Benthic Macroinvertebrates
2006	Orientation to Quality Assurance Management
2006	Data Quality Objectives
2006	Quality Management Plan - Quality Assurance Project Plan Seminar
2006	Advanced Macroinvertebrate Ecology and Identification
2005	Macroinvertebrate Ecology and Identification
2005	Not for the Meek – Planning and Technical Advisory Program
2005	Security Awareness
2005	Creating Professionalism in the Workplace
2005	Microsoft Excel 2002-Level 2

# wbdhu8\_a\_ar

## Shapefile



## Tags

Christian County, Rockcastle County, Ripley County, Hickman County, Cameron County, Galax City, Casey County, Beaver County, Spencer County, Henderson County, Tuscarawas County, Virginia, Cheatham County, Meade County, Ross County, McDowell County, Holmes County, MD, Fentress County, Livingston County, Iroquois County, Garrard County, Mingo County, Crawford County, Fairfield County, Monongalia County, Whitley County, Tazewell County, Region, Cumberland County, Indiana, Ohio, Stark County, Garrett County, 10-digit, Wayne County, Greene County, Alexander County, Union County, Posey County, Vanderburgh County, Braxton County, McCracken County, Hocking County, Mahoning County, Potter County, Watauga County, Franklin County, IL, Estill County, Breathitt County, Randolph County, Smith County, Maryland, Geauga County, Claiborne County, Crittenden County, Boone County, IN, TN, Vigo County, Kanawha County, Forest County, NY, Madison County, Guernsey County, Washington County, Jay County, Letcher County, Logan County, Oldham County, Marshall County, Scioto County, inlandWaters, Belmont County, Magoffin County, Lawrence County, Houston County, North Carolina, Edgar County, Wetzel County, Martin County, 12-digit, Roane County, Pennsylvania, Summers County, Basin, Kenton County, White County, Hamilton County, Portage County, Knox County, Ashe County, Brooke County, Gilmer County, Watershed, Edmonson County, Campbell County, Decatur County, Watershed Boundary Dataset, Smyth County, Warrick County, Dickenson County, Warren County, Fountain County, Bullitt County, Pleasants County, Indiana County, OH, Saline County, Wilson County, Gibson County, Clarion County, Grundy County, Overton County, Russell County, Breckinridge County, Calhoun County, Sequatchie County, Trigg County, Medina County, Subwatershed, Highland County, Grayson County, Dearborn County, Nicholas County, Wolfe County, Bartholomew County, Patrick County, Cannon County, Clinton County, Meigs County, Sub-basin, Rush County, Preble County, Sub-region, Boyle County, Giles County, Cabell County, McKean County, Alleghany County, Carter County, Pope County, Armstrong County, Davidson County, Bracken County, Effingham County, Johnson County, Hydrologic Unit Code, Ballard County, Hancock County, Raleigh County, Marion County, Elk County, Clearfield County, Cattaraugus County, Wilkes County, Ohio County, Champaign County, Miami County, Butler County, Hart County, Fleming County, 16-digit, Williamson County, Upshur County, Switzerland County, Woodford County, Harrison County, Mercer County, Brown County, Wyandot County, Pulaski County, Lincoln County, Clermont County, Coles County, Wyoming County, Blackford County, Dickson County, Pickaway County, McLean County, Hardin County, Muskingum County, Van Buren County, Howard County, Licking County, Ashland County, Columbiana County, WV, Douglas County, Powell County, Stewart County, Wells County, Allegheny County, HUC, Huntington County, Doddridge County, NC, Sullivan County, Coffee County, McCreary County, Lewis County, Gallatin County, Tippecanoe County, Kosciusko County, Buchanan County, Craig County, Jessamine County, Pendleton County, Orange County, Nelson County, Webster County, Radford City, Jefferson County, Pickett County, Todd County, Rowan County, Vermillion County, Bath County, Erie County, Delaware County, Boyd County, US, Daviess County, Knott County, Sumner County, Jennings County, Leslie County, Trimble County, 6-digit, Lyon County, Blair County, Barren County, Muhlenberg County, 8-digit, KY, Preston County, Parke County, Gallia County, Caldwell County, 2-digit, Wabash County, Trumbull County, Owen County, Scott County, Hydrologic Units, 4-digit, Jasper County, Greenup County, Dubois



County, Pike County, Owsley County, Edwards County, Montgomery County, PA, Trousdale County, Ashtabula County, Shelby County, Chautauqua County, Anderson County, US, United States, United States, Floyd County, Somerset County, Cass County, Tipton County, Ford County, Rutherford County, Clay County, Jackson County, Bourbon County, DeKalb County, Wise County, Laurel County, Wood County, Moultrie County, Fayette County, Greenbrier County, Robertson County, Fulton County, Pocahontas County, West Virginia, Larue County, Bland County, Hendricks County, Hopkins County, Summit County, Bell County, Monroe County, Humphreys County, Noble County, Morrow County, Tennessee, VA, Adams County, Carroll County, Green County, Elliott County, Kentucky, Coshocton County, Metcalfe County, Athens County, Bedford County, Clark County, Harlan County, Illinois, Tucker County, Venango County, Putnam County, Barbour County, Henry County, Wirt County, Morgan County, Simpson County, Starke County, Adair County, Auglaize County, Perry County, Bledsoe County, 14-digit, Tyler County, Darke County, Menifee County, Macon County, Allen County, Taylor County, New York, WBD, Westmoreland County, Cambria County, Grant County, Ritchie County, Mason County, Lee County, Massac County, Vermillion County, Wythe County, Surry County, Benton County, Vinton County, Richland County, Allegany County

### **Summary**

The intent of defining Hydrologic Units (HU) within the Watershed Boundary Dataset is to establish a base-line drainage boundary framework, accounting for all land and surface areas. Hydrologic units are intended to be used as a tool for water-resource management and planning activities particularly for site-specific and localized studies requiring a level of detail provided by large-scale map information. The WBD complements the National Hydrography Dataset (NHD) and supports numerous programmatic missions and activities including: watershed management, rehabilitation and enhancement, aquatic species conservation strategies, flood plain management and flood prevention, water-quality initiatives and programs, dam safety programs, fire assessment and management, resource inventory and assessment, water data analysis and water census.

### **Description**

The Watershed Boundary Dataset (WBD) is a comprehensive aggregated collection of hydrologic unit data consistent with the national criteria for delineation and resolution. It defines the areal extent of surface water drainage to a point except in coastal or lake front areas where there could be multiple outlets as stated by the "Federal Standards and Procedures for the National Watershed Boundary Dataset (WBD)" "Standard" (<http://pubs.usgs.gov/tm/11/a3/>). Watershed boundaries are determined solely upon science-based hydrologic principles, not favoring any administrative boundaries or special projects, nor particular program or agency. This dataset represents the hydrologic unit boundaries to the 12-digit (6th level) for the entire United States. Some areas may also include additional subdivisions representing the 14- and 16-digit hydrologic unit (HU). At a minimum, the HUs are delineated at 1:24,000-scale in the conterminous United States, 1:25,000-scale in Hawaii, Pacific basin and the Caribbean, and 1:63,360-scale in Alaska, meeting the National Map Accuracy Standards (NMAS). Higher resolution boundaries are being developed where partners and data exist and will be incorporated back into the WBD. WBD data are delivered as a dataset of polygons and corresponding lines that define the boundary of the polygon. WBD polygon attributes include hydrologic unit codes (HUC), size (in the form of acres and square kilometers), name, downstream hydrologic unit code, type of watershed, non-contributing areas, and flow modifications. The HUC describes where the unit is in the country and the level of the unit. WBD line attributes contain the highest level of hydrologic unit for each boundary, line source information and flow modifications.

### **Credits**

Funding for the Watershed Boundary Dataset (WBD) was provided by the USDA-NRCS, USGS and EPA along with other federal, state and local agencies. Representatives from many agencies contributed a substantial amount of time and salary towards quality review and updating of the dataset in order to meet the WBD Standards. Acknowledgment of the originating



agencies would be appreciated in products derived from these data. See dataset specific metadata for further information

#### **Use limitations**

The distributor shall not be held liable for improper or incorrect use of this data, based on the description of appropriate/inappropriate uses described in this metadata document. It is strongly recommended that this data is directly acquired from the distributor and not indirectly through other sources which may have changed the data in some way. These data should not be used at scales greater than 1:24,000 for the purpose of identifying hydrographic watershed boundary feature locations in the United States. The Watershed Boundary Dataset is public information and may be interpreted by all organizations, agencies, units of government, or others based on needs; however, they are responsible for the appropriate application of the data. Photographic or digital enlargement of these maps to scales greater than that at which they were originally delineated can result in misrepresentation of the data. If enlarged, the maps will not include the fine detail that would be appropriate for mapping at the small scale. Digital data files are periodically updated and users are responsible for obtaining the latest version of the data from the source distributor. Acknowledgment of the origination agencies would be appreciated in products derived from these data.

#### **Extent**

**West** -95.616000    **East** -88.908721  
**North** 37.733140    **South** 31.800541

#### **Scale Range**

**Maximum (zoomed in)** 1:24,000  
**Minimum (zoomed out)** 1:250,000



# ADEQ

ARKANSAS  
Department of Environmental Quality

**CERTIFIED MAIL: 9489 0090 0027 6022 2427 07**

October 25, 2017

Pat Sanders, Property Owner  
Route 1 Box 238  
Western Grove, AR 72685

RE: Reconnaissance Inspection (Newton County)  
AFIN: 51-00000 NPDES Permit No.:

Dear Mr. Sanders:

On August 17 and October 4, 2017, I performed a Reconnaissance Inspection at your farm in accordance with the provisions of the Federal Clean Water Act, the Arkansas Water and Air Pollution Control Act, and the regulations promulgated thereunder. A copy of the inspection report is enclosed for your records.

Please refer to the "Summary of Findings" section of this report and provide a written response for each violation noted. This case has been referred directly to the Enforcement Branch of the Office of Water Quality for further review. Please immediately initiate all actions necessary to resolve and correct the violations cited.

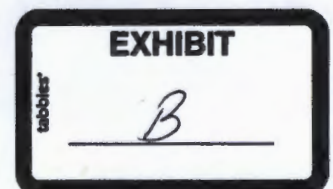
If you have any questions please contact Richard Healey, Enforcement Branch Manager, at 501-682-0649 or [healeyr@adeq.state.ar.us](mailto:healeyr@adeq.state.ar.us).

Sincerely,



Garrett Grimes  
District 1 Field Inspector  
Office of Water Quality

CC: Stacie Wassell, Attorney, ADEQ Legal Division  
Richard Healey, Enforcement Branch Manager, Office of Water Quality







**ARKANSAS**  
Department of Environmental Quality

**OFFICE OF WATER QUALITY INSPECTION REPORT**

AFIN: 51-00000 PERMIT #: DATE: 8/17/2017  
 COUNTY: 51 Newton PDS #: 099746 MEDIA: W  
 GPS LAT: 36.10192 LONG: -93.01016 LOCATION: General Area

FACILITY INFORMATION		INSPECTION INFORMATION	
NAME: <b>Pat Sanders</b>	FACILITY TYPE: *****	INSPECTOR ID#: <b>104111 S - State</b>	
LOCATION: <b>Pat Sanders Farm, Newton County Rd 50</b>	FACILITY EVALUATION RATING: ***	INSPECTION TYPE: <b>Reconnaissance</b>	
CITY: <b>Western Grove, AR</b>	DATE(S): <b>8/17/2017</b>	ENTRY TIME: <b>11:14</b>	EXIT TIME: <b>12:30</b>
	<b>10/04/2017</b>	<b>16:40</b>	<b>16:50</b>
			PERMIT EFFECTIVE DATE:
			PERMIT EXPIRATION DATE:
<b>RESPONSIBLE OFFICIAL</b>		<b>FAYETTEVILLE SHALE RELATED: N</b>	
NAME / TITLE: <b>Pat Sanders / Property Owner</b>		<b>FAYETTEVILLE SHALE VIOLATIONS: N</b>	
COMPANY:		<b>INSPECTION PARTICIPANTS</b>	
MAILING ADDRESS: <b>Route 1 Box 238</b>		NAME/TITLE/PHONE/FAX/EMAIL/ETC.:	
CITY, STATE, ZIP: <b>Western Grove AR 72685</b>		<b>Pat Sanders/ Property Owner/ 870.577.0478</b>	
PHONE & EXT. / FAX: <b>870.577.0478 /</b>		<b>Garrett Grimes/ District 1 Inspector/ ADEQ</b>	
EMAIL:			
CONTACTED DURING INSPECTION: <b>Yes</b>			

AREA EVALUATIONS			
(S=Satisfactory, M=Marginal, U=Unsatisfactory, N=Not Applicable/Evaluated)			
** PERMIT	** FLOW MEASUREMENT	** STORMWATER	
** RECORDS/REPORTS	** LABORATORY	** FACILITY SITE REVIEW	
** OPERATION & MAINTENANCE	** EFFLUENT/RECEIVING WATER	** SELF-MONITORING PROGRAM	
** SAMPLING	** SLUDGE HANDLING/DISPOSAL	** PRETREATMENT	
** OTHER:			

**SUMMARY OF FINDINGS**

ADEQ arrived on-site on August 17, 2017. Upon arrival swine were observed on the County Road 50 and throughout the property (Photos #1 - #3). Water was observed flowing across the property, onto County Road 50, and south towards Cedar Creek (Photos #4 - #9, Figure 1). Water accumulated on the property was observed running off through an area where swine as well as piles of animal waste were located (Photos #2 #10 & #11).

I met with Mr. Pat Sanders, Property Owner, during the inspection. According to Mr. Sanders the property was previously used for approximately 11 years for raising turkeys, but switched to raising swine in August, 2015. Mr. Sanders stated he was having difficulty selling the swine on the farm due to disease and slow growth. Mr. Sanders explained that he had approximately 440 sows, 700 - 800 piglets, 1000 market sized swine, and 1000 feeder sized swine; and, that he did not have enough room in the barns to house all the swine so he allowed them to roam the property and surrounding area.

Mr. Sanders stated that he had a Nutrient Management Plan (NMP) through the Arkansas Natural Resource Commission (ANRC). However, ANRC confirmed the NMP was for the previous turkey operation. According to Mr. Sanders, he had been pushing waste out of the barns onto the surrounding ground because there was not enough room in the barns and verified that the previous observations were of animal waste. Mr. Sanders also stated that there was approximately three feet of manure piled in one of the barns (Photo #12).


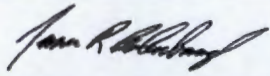
I returned to the property on October 4, 2017. Swine were still observed throughout the property and animal waste was still present, but no water was observed running off the property at the time of the inspection (Photos #13 - #15).



Due to the runoff and inability to manage waste generated from your operation, you may be in violation of Arkansas Water and Air Pollution Control Act § 8-4-217(a)(2) which states, "It shall be unlawful for any person to place or cause to be placed any sewage, industrial waste, or other wastes in a location where it is likely to cause pollution of any waters of this state."

You are in violation of Arkansas Water and Air Pollution Control Act § 8-4-217(b)(1)(c) which states, "It shall be unlawful for any person to construct, install, or operate any building, plant, works, establishment, or facility, or any extension or modification thereof, or addition thereto, the operation of which would result in discharge of any wastes into the waters of this state or would otherwise alter the physical, chemical, or biological properties of any waters of this state in any manner not already lawfully authorized." Furthermore, it has been determined that your operation is within the Buffalo National River Watershed. Per Arkansas Pollution Control and Ecology Commission Regulation 5 (Section 5.901) and Regulation 6 (Section 6.602), the Director shall not issue a permit pursuant to either regulation for a Confined Animal Feeding Operation in the Buffalo National River Watershed with: (1) 750 or more swine weighing 55 pounds or more; or, (2) 3,000 or more swine weighing less than 55 pounds.

**GENERAL COMMENTS**

INSPECTOR'S SIGNATURE:  Garrett Grimes	DATE: 10/24/2017
SUPERVISOR'S SIGNATURE:  Jason Bolenbaugh	DATE: 10/24/2017



Office of Water Quality Photographic Evidence Sheet

Location:	Pat Sanders Farm				
Photographer:	Garrett Grimes, District 1 Inspector	Date:	08/17/2017	Time:	11:18
Witness:				Photo #:	1
Description:	Swine on property.				



Photographer:	Garrett Grimes, District 1 Inspector	Date:	08/17/2017	Time:	11:19
Witness:				Photo #:	2
Description:	Swine on the property. Animal waste is in the pen.				





Office of Water Quality Photographic Evidence Sheet

Location:	Pat Sanders Farm				
Photographer:	Garrett Grimes, District 1 Inspector	Date:	08/17/2017	Time:	11:20
Witness:				Photo #:	3
Description:	Swine in the woods off the property on the south side of County Road 50 and in the Buffalo National River Watershed.				



Photographer:	Garrett Grimes, District 1 Inspector	Date:	08/17/2017	Time:	11:20
Witness:				Photo #:	4
Description:	Water running off the property onto County Road 50 looking north (location 1, Figure 5).				





Office of Water Quality Photographic Evidence Sheet

Location:	<b>Pat Sanders Farm</b>				
Photographer:	<b>Garrett Grimes, District 1 Inspector</b>	Date:	<b>08/17/2017</b>	Time:	<b>11:20</b>
Witness:				Photo #:	<b>5</b>
Description:	<b>Water running off the property onto County Road 50 looking west (location 1, Figure 5).</b>				



Photographer:	<b>Garrett Grimes, District 1 Inspector</b>	Date:	<b>08/17/2017</b>	Time:	<b>11:23</b>
Witness:				Photo #:	<b>6</b>
Description:	<b>Water running off the property onto County Road 50 looking north (location 2, Figure 5).</b>				





Office of Water Quality Photographic Evidence Sheet

Location:	Pat Sanders Farm				
Photographer:	Garrett Grimes, District 1 Inspector	Date:	08/17/2017	Time:	11:22
Witness:				Photo #:	7
Description:	Water running off the property onto County Road 50 looking west (location 2, Figure 5).				



Photographer:	Garrett Grimes, District 1 Inspector	Date:	08/17/2017	Time:	11:24
Witness:				Photo #:	8
Description:	Water running off the property onto County Road 50 looking north (location 3, Figure 5).				





Office of Water Quality Photographic Evidence Sheet

Location:	Pat Sanders Farm				
Photographer:	Garrett Grimes, District 1 Inspector	Date:	08/17/2017	Time:	11:24
Witness:				Photo #:	9
Description:	Water running off the property onto the County Road 50 looking west (location 3, Figure 5).				



Photographer:	Garrett Grimes, District 1 Inspector	Date:	08/17/2017	Time:	11:24
Witness:				Photo #:	10
Description:	Water flowing through the property. Darker ground is animal waste.				





Office of Water Quality Photographic Evidence Sheet

Location:	<b>Pat Sanders Farm</b>				
Photographer:	<b>Garrett Grimes, District 1 Inspector</b>	Date:	<b>08/17/2017</b>	Time:	<b>11:57</b>
Witness:	<b>Pat Sanders, Property Owner</b>			Photo #:	<b>11</b>
Description:	<b>Continued from Photo #10. Water pooling on property in front of and between barns.</b>				



Photographer:	<b>Garrett Grimes, District 1 Inspector</b>	Date:	<b>08/17/2017</b>	Time:	<b>12:13</b>
Witness:	<b>Pat Sanders, Property Owner</b>			Photo #:	<b>12</b>
Description:	<b>Inside of barn. Mr. Sanders indicated pile of waste inside was ~3 feet in height.</b>				



Office of Water Quality Photographic Evidence Sheet

Location:	Pat Sanders Farm				
Photographer:	Garrett Grimes, District 1 Inspector	Date:	10/04/2017	Time:	13:48
Witness:				Photo #:	13
Description:	Follow-up photo showing animal waste is still present (1 of 2).				



Photographer:	Garrett Grimes, District 1 Inspector	Date:	10/04/2017	Time:	13:48
Witness:				Photo #:	14
Description:	Follow-up photo showing animal waste is still present (2 of 2).				





Office of Water Quality Photographic Evidence Sheet

Location:	Pat Sanders Farm				
Photographer:	Garrett Grimes, District 1 Inspector	Date:	10/04/2017	Time:	13:47
Witness:		Photo #:	15		
Description:	Water was not flowing off property during the follow-up.				



Figure 1: Aerial view of the farm. The black line shown intersects the farm and is the dividing line for the Buffalo National River Watershed (USGS HUC 11010005) and Bull Shoals Lake Watershed (USGS HUC 11010003). The area to the south of the dividing line is the Buffalo National River Watershed and the area to the north of the dividing line is the Bull Shoals Lake Watershed.

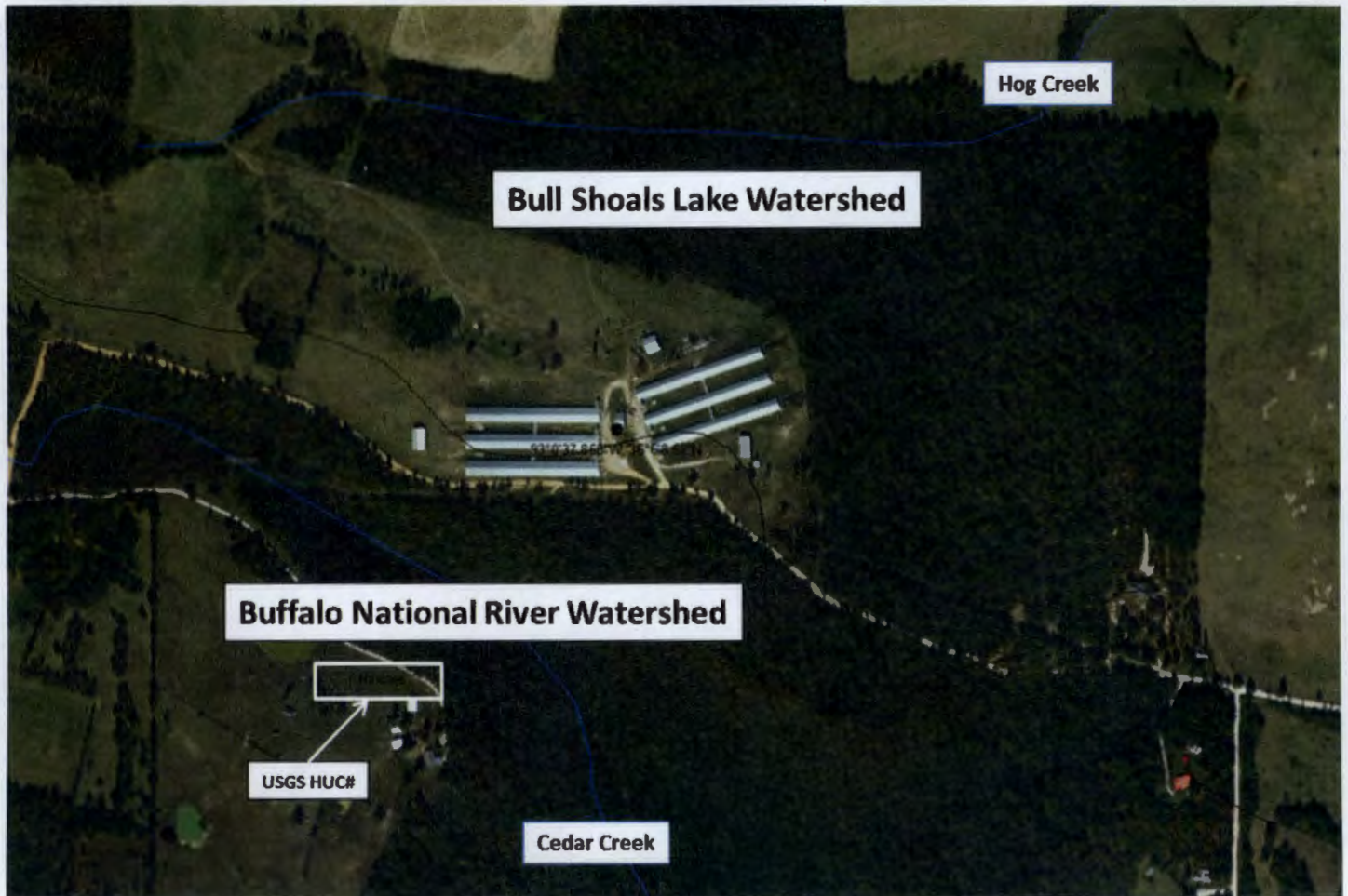




Figure 2: Close-up aerial view of the farm and the watersheds.

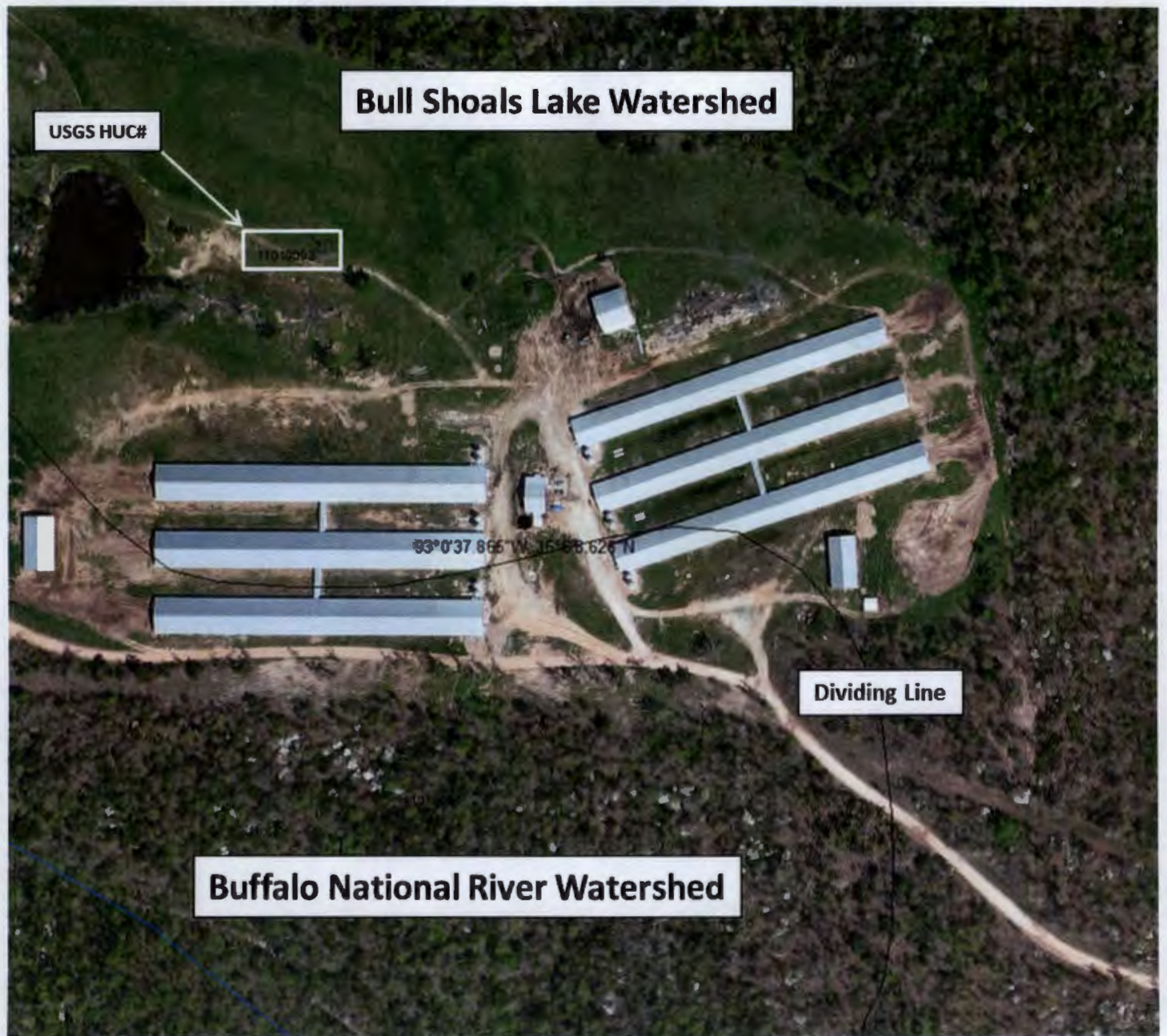




Figure 3: Aerial view of the farm. The red line is the watersheds dividing line and the area highlighted in yellow is the Buffalo National River Watershed.

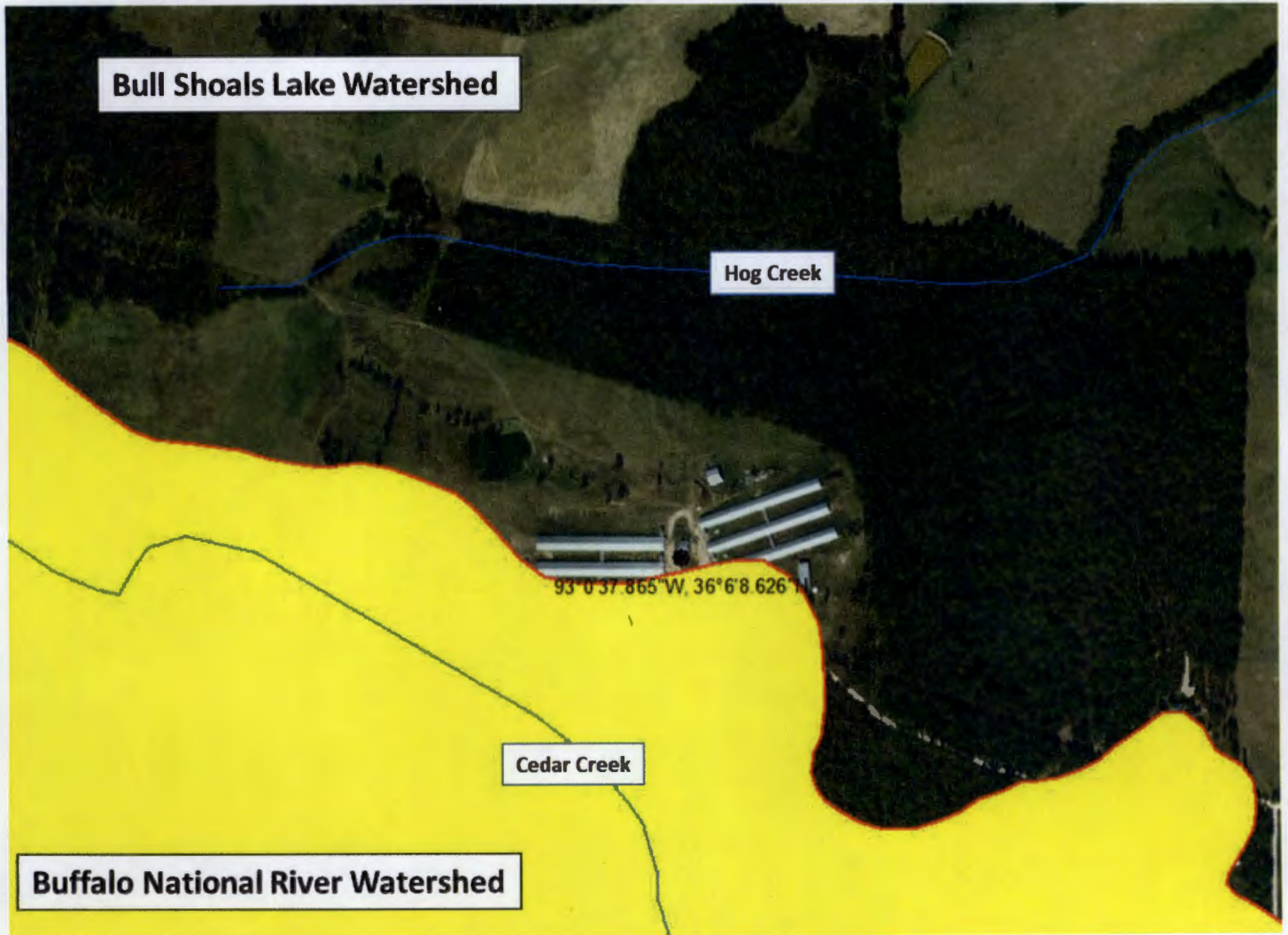




Figure 4: Topographic map showing the location of the farm (black dot and coordinates), elevations, watersheds dividing line, and the Buffalo National River Watershed and Bull Shoals Lake Watershed.

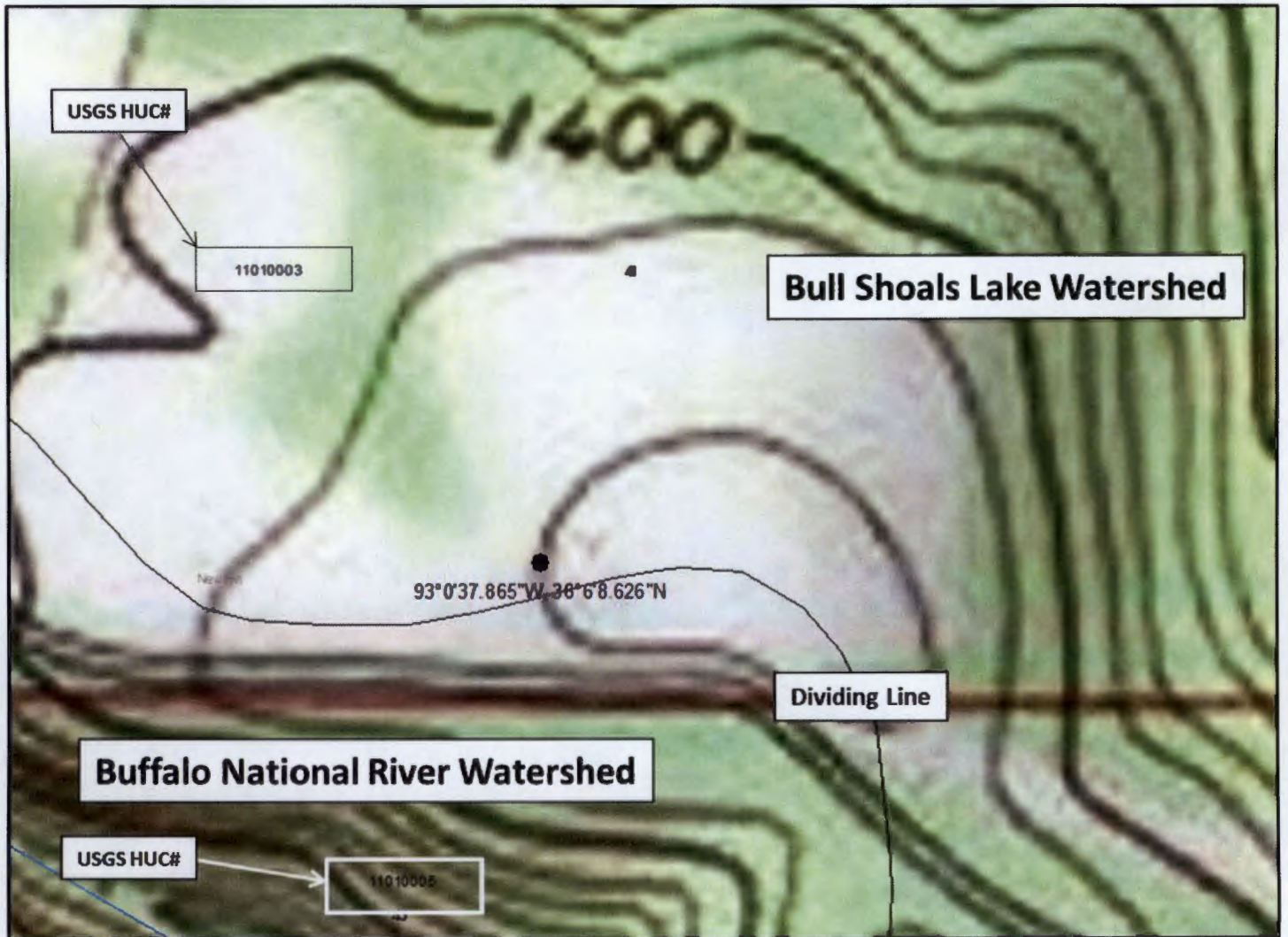




Figure 5: Map showing approximate runoff locations (red dots 1-3) from Photos #4 - #9 onto County Road 50. Area inside of the yellow box outlines pig and animal waste locations in Photos #2 & #10. All runoff observed was flowing towards Cedar Creek (blue line) in the Buffalo National River Watershed.

