

*“Protecting the public health and natural resources of the
White River watershed through advocacy, education, and research”*

WHITE RIVER
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5 September 2018

Ms. Sarah Clem
Planning Branch Manager, Office of Water Quality
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118
Sent via email to clem@adeq.state.ar.us, FOIA@adeq.state.ar.us

Re: 2018 Draft 303(d) Supplemental Materials - FOIA Request and Clarifications

Dear Ms. Clem,

I would like to start by saying I commend ADEQ’s efforts in compiling an extensive amount of information and supplemental materials to support Arkansas’s Integrated Report. However, I have not been able to track down a few specifics that should currently be out for public review and comment regarding the 2018 draft 303(d) list. Information was also not included in response to my 28 June 2018 FOIA request, specifically regarding “correspondence between ADEQ and EPA regarding the 2018 draft 303(d) list of impaired waterbodies from (22 October 2017 – present).”¹

Category 4b Determinations vs. Demonstrations

Background

Information provided on ADEQ’s website regarding Category 4b Determinations are limited to alternative management plans for non-attainment decisions for assessment units in the Illinois River, Buffalo River, and Beaver Lake watersheds.^{2, 3, 4, 5}

¹ 28June2018 Letter from WRW to ADEQ Re: Assessment Methodology and 3039d) List FOIA Request

² ADEQ Category 4b Determinations,

<https://www.adeq.state.ar.us/water/planning/integrated/303d/pdfs/2018/category-4b-determinations.pdf>

³ Beaver Lake Watershed Protection Strategy <http://www.beaverwatershedalliance.org/pdf/Beaver-Lake-Watershed-Protection-Strategy.pdf>

⁴ Buffalo River Watershed Management Plan

<https://www.adeq.state.ar.us/water/planning/integrated/303d/pdfs/2018/2018-05-22-final-buffalo-river-wmp.pdf>

⁵ Watershed-Based Management Plan for the Upper Illinois River Watershed

<https://www.adeq.state.ar.us/water/planning/integrated/303d/pdfs/2018/uirw-watershed-based-plan-2012-11-30-final.pdf>



EPA recommends states should submit Category 4b *demonstrations* with Integrated Report submissions that address the following six elements:⁶

1. Identification of segment and statement of problem causing the impairment;
2. **Description of pollution controls and how they will achieve water quality standards;**
3. **An estimate or projection of the time when WQS will be met;**
4. **Schedule for implementing pollution controls;**
5. **Monitoring plan to track effectiveness of pollution controls;** and
6. Commitment to revise pollution controls, as necessary.

Information is lacking to sufficiently to address elements in **bold**. While voluntary watershed management plans address nonpoint source controls that can help achieve water quality standards (although, targets outlined in the Buffalo River Watershed Management Plan do not correspond to impaired AUs), this falls short of EPA recommendations. Regarding *Element #2*, states are expected to provide EPA with a “linkage analysis (i.e., cause-and-effect relationship between a water quality target and sources)” evaluating **point** and nonpoint source loadings that when implemented will achieve water quality standards.⁷

Request

Although the supplemental materials provided on ADEQ’s website document the rationale for Category 4b **determinations**, information seems to be lacking adequate details *demonstrating* how implementation strategies of controls already in place are sufficient to achieve water quality standards in a reasonable period of time.

If additional materials addressing elements #2, 3, 4, and 5 (**bold**), outside of those provided on ADEQ’s website, currently exist, I would like to request them formally. If materials addressing these elements do not exist, please confirm such.

Removal of Total Phosphorous Pollutant Pairs

Background

The Record of Decision (ROD) for EPA Action on Arkansas’ 2008 303(d) List proposed the following additions for total phosphorous:^{8,9}

- Muddy Fork (11110103-027)
- Osage Creek (11110103-030, 11110103-930)

⁶ See p. 7, 12 October 2006 Memo, Diane Regas, EPA, Re: Information Concerning 2008 Clean Water Act Sections 303(d), 305(b), and 314 Integrated Reporting and Listing Decisions, https://www.epa.gov/sites/production/files/2015-10/documents/2006_10_27_tmdl_2008_ir_memorandum.pdf

⁷ See p. 8, *Id.*

⁸ 18 June 2008, EPA 2008 303(d) ROD, <https://www.adeq.state.ar.us/water/planning/integrated/303d/pdfs/2008/epa-rod.pdf>

⁹ Arkansas Final Impaired Waterbodies List 2008, <https://www.adeq.state.ar.us/water/planning/integrated/303d/pdfs/2008/303d-list.pdf>



- Spring Creek (11110103-931)
- Town Branch (11110103-901)

Although ADEQ left these off all subsequent 303(d) lists, EPA recommended Category 4b designations for these pollutant pairs.¹⁰ However, these pollutant pairs are not included on the 2018 draft 303(d) list,¹¹ formally delisted,¹² or included in Category 4b determinations.¹³

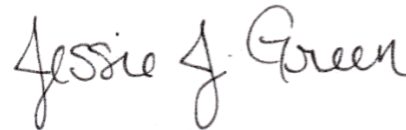
Request

If additional delisting or otherwise related materials currently exist, outside of those provided on ADEQ's website, I would like to request them formally. If materials addressing the apparent delisting do not exist, please confirm such.

303(d) Public Participation

In the event of proposed changes or additional information provided in response to the above concerns, will ADEQ submit these for public comment and review, and subsequently extend the comment period?

Thank you for your timeliness in this response.



Jessie J. Green
Executive Director & Waterkeeper

¹⁰ 19 July 2017 Letter from William Honker Re: EPA Action on Arkansas's 2010, 2012, 2014, and 2016 § 303(d) Lists, <https://www.adeg.state.ar.us/water/planning/integrated/303d/pdfs/2017/epa-decision-7192017.pdf>

¹¹ Draft 2018 Category 5, <https://www.adeg.state.ar.us/water/planning/integrated/303d/pdfs/2018/2018-draft-list-public-notice.pdf>

¹² Draft 2018 Waters Delisted from Final Category 5 2016 303(d) List, <https://www.adeg.state.ar.us/water/planning/integrated/303d/pdfs/2018/2018-draft-list-public-notice-delistings-listings.pdf>

¹³ ADEQ Category 4b Determinations, <https://www.adeg.state.ar.us/water/planning/integrated/303d/pdfs/2018/category-4b-determinations.pdf>



CC:

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