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Friday, October 24, 2014 – via email to: arkansaswater@cdmsmith.com
And Via fax to 505.243.2700

Arkansas Water
CDM Smith
6000 Uptown Blvd. NE, Suite 200
Albuquerque, NM 87110

Re: Draft for Public Comment of Executive Summary for Arkansas Water Plan Update

Dear Sir or Madam:

Friends of the North Fork and White Rivers (*Friends*) appreciates the opportunity to participate in the revision of the State Water Plan, including these comments on the Draft for Public Comment of Executive Summary for Arkansas Water Plan Update (Executive Summary). *Friends* is an all-volunteer watershed protection organization, an Arkansas non-profit 501 (c)(3), dedicated to creating an on-going dialogue where individuals, groups and government agencies can work together to protect our streams and rivers. Our focus is the Middle Section of the White River, five counties—Baxter, Marion, Stone, Izard, and Independence. The Buffalo National River and Crooked Creek are part of this focus as well. Our members and subscribers hail from all across the United States and beyond, coming here to Arkansas for their experience on the land and water of the Ozarks. We present general statements and comments in the order of our greatest interest in consideration.

General statement regarding our participation and experience

Four leaders from our Board, George Peters, Jerry Weber, Sam Cooke and I participated throughout the process, attending both the statewide meetings and the Regional Planning meetings. It is likely to be the last AR water plan we four will work on, and we are dedicated to seeing that it serves to develop and manage our water resources through the year 2050. We learned much and realize the value of policies that are in place as well as those that need enhancing and the role of our ADEQ in enforcing water quality through the Reg. Number 2. We learned of sciences and the intricacies involving both water quantity and quality, and worked with others to bolster the non-point source pollution incentives and actions benefiting the goals of landowners. We were reminded of the value and role of public notice and comment in developing water policy. While our focus is our own watershed, we are committed to the best water policy and water plan possible for Arkansas.

Specific Comments and recommendations – Section 3.3 – the 25% rule

Background

Friends understands that withdrawals from streams and rivers by non-riparians (other than riparian users) are statutorily limited by the definition of excess surface water defined by ANRC Title 3 – as 25% of the average annual yield from any watershed above that amount. This limitation provides a buffer and guidance to farmers and landowners regarding over-allocation while ensuring appropriate protection of in stream aquatic life.

The proposal to remove the 25% rule did not emerge as a priority recommendation of collaborative stakeholder process to which we had prescribed. Rather, what did evolve was a statement to see that the AWP include a commitment to initiate the best available science in determining in stream flows that assure the life and health of the stream, including aquatic life.

FNFWR Comment:

Retain the 25% limitation governing the maximum amount of water allocated to nonriparian withdrawals in the law until a more appropriate scientifically-based and stakeholder engaged process is initiated and finalized.

General Comments on Water Quality

Water quantity and water quality are intertwined in a complex relationship. Friends recognizes that water must be managed sustainably, with certain priorities, drinking water, local and state economies, applying policies and best practices while preserving private property rights. The Arkansas Game and Fish Commission notes that the state “is rich with mountain streams, most of which are tributary orders including the Buffalo, an Ozark Zone Blue Ribbon smallmouth bass stream and a national recreation destination.” In Arkansas, EPA estimates that 52 percent of the streams have no other streams flowing into them, and that 63 percent do not flow year-round. Small streams, including those that don’t flow all of the time, make up the majority of the country’s waters. The health of small streams is critical to the health of the entire river network and downstream communities. EPA states that 941,225 people in Arkansas receive some of their drinking water from areas containing smaller streams and that at least 389 facilities located on such streams currently have permits under the federal law regulating their pollution discharges. Aquatic ecosystems are valuable indicators of the suitability of water for many human uses and play an important role in maintaining water quality. These ecosystems also support healthy fisheries that feed our people and our economies. The tourism industry reports \$3-4 billion into our state’s economy, with fishing, hunting and wildlife watching making up a large portion of those dollars. Over 550,000 fishers; 335,000 hunters and 800,000 photographers!

Section 2.2 – Water Availability

Comment:

While managing water resources in a manner that will protect the ecological needs of fish and wildlife is recognized as a goal of the Arkansas Water Plan, Friends notes that water needed to maintain aquatic life uses is not separately addressed in the Key Findings related to Water Availability.

Section 2.3 – Water Availability

Comment:

Friends does not understand the statement, “there is no pattern of impairment or cause of impairment” found in this section in reference to 41% of the state’s streams not meeting designated use.

Table 6.4 is given as a reference as well as the ADEQ 303d list of impaired waters. It is impossible to draw a conclusion as to cause of impairment from the table. However, an ADEQ supplied map of impaired streams in the state shows a majority of the impaired streams in areas of the greatest concentration of irrigated farmland. The ADEQ 2012 305b Report states that 43.1% of the impaired stream miles have been assigned agriculture as the cause of impairment. Of the known sources of impairment, this is the largest source. Previous assessments by ADEQ have pinpointed agriculture as the largest contributor to nonpoint source pollution statewide. This includes all types of agriculture practices. The same report addresses primary sources of groundwater contamination. It mentions agriculture as one of the two largest contributors to groundwater contamination. The fact that 41% of streams and 36% of lakes fail to meet designated use is a general pattern of impairment. As to pattern of cause, agriculture leads the list of causes.

Since 2001, water quality has been in steady decline around the nation and in Arkansas. More than forty streams have been added to the 303d list of impaired waters in the state. TMDL’s are required but there is not statutory requirement to address impaired waters within any time frame, resulting in a continuing decline in water quality. Regulation Number 2 states that *these “standards are designed to enhance the quality, value, and beneficial uses of the water resources of the State of Arkansas, to aid in the prevention, control and abatement of water pollution, to provide for the protection and propagation of fish and wildlife and to provide for recreation in and on the water.”*

Comment:

Friends affirms the regulatory authority of ADEQ to protect the quality of the waters of the state and recommends the Arkansas Water Plan acknowledge and endorse all the water quality protections and management strategies adopted in the ADEQ Regulation Number 2.

Comment:

Because water quantity and water quality are intertwined the AWP should address the issues together establishing Basin specific flow objectives that produce rivers containing high quality water in health quantities.

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Comment:

Friends believes that public participation is necessary in the decision-making process involved in both the Triennial Review and the 303d list work of ADEQ. We recognize and uphold the opportunities made available by ADEQ to interested stakeholders, state agencies, members of the regulated community and non-profit organizations.

Implementation

The Executive Summary is a colossal document and a challenge to the most dedicated citizen in digesting it so that effective comments can be made. While those who participated in the process knew where to find the background research and basis for certain statements in the Executive Summary, much of the science was not included.

Comment

Friends believes it would be beneficial to provide that detail at this point of the process and extend the comment period allowing for response to the complete information.

Comment

Friends recommends the continuation of the Water Resource Planning Regions where utilizing the reality of best available science, the participants--water users (sectors), agencies and citizens can work together to adapt plans and actions. We believe this process will profit the availability and use of our natural resources into a future that we who participate now are not likely to see.

In closing, we thank you again for deciding on the philosophy of this process. We look forward to promoting the involvement of our varied constituents to see that it is honored and utilized for the benefit of Arkansas Water as we move forward at this critical stage.

Sincerely,

Jane E. Darr

Jane E. Darr
President

Cc: via Email: Friends Board

J. Randy Young, ANRC
Edward C. Swaim, ANRC
Ellen Carpenter, ADEQ
Mike Armstrong, AGFC

Friends of the North Fork and White Rivers is an Arkansas 501(c)(3) non-profit organization devoted to creating an ongoing dialogue where individuals, groups, and government agencies can work together to conserve, restore and enhance these beautiful rivers.