

BEFORE THE ARKANSAS SOIL AND WATER CONSERVATION COMMISSION

**IN RE: THE DESIGNATION OF THE ALLUVIAL AND SPARTA AQUIFERS WITHIN
ARKANSAS, JEFFERSON, AND PRAIRIE COUNTIES, AND PARTS OF LONOKE,
PULASKI, AND WHITE COUNTIES AS A CRITICAL GROUND WATER AREA**

CGWA 1998-2

ORDER

By order of the Arkansas County Circuit Court in case number CIV 98-39, an appeal of the Arkansas Soil and Water Conservation Commission's July 1998 declaration of a critical ground water area, the issue of what parts of Arkansas County should be included in the Area was remanded to the Commission "for such further action as it may deem necessary." On January 13, 2000, the Arkansas Supreme Court dismissed without prejudice an appeal of the Order. Pursuant to the Court's Order, the Commission hereby orders that:

1. The Commission will proceed under the Arkansas Groundwater Protection and Management Act (Arkansas Code 15-22-901 *et seq.*) and the Administrative Procedure Act (Arkansas Code 25-15-201 *et seq.*) to determine what areas, if any, in Arkansas County have developed, or trends indicate they may develop, significant ground water depletion and/or degradation, thus meriting inclusion in the Critical Ground Water Area.
2. The Commission's declaration of a Critical Ground Water Area of July 15, 1998, was stayed pending the appeal. The stay, as it applies to these five (5) counties, Jefferson, Prairie, and parts of Lonoke, Pulaski, and White is hereby lifted. Enhanced tax credits for conversion from ground to surface water use under the Water Resource Conservation and Development Incentives Act (Arkansas Code 26-51-1001 *et seq.*) are hereby made available to taxpayers owning land in those counties. The stay, as it applies to Arkansas County, will remain in effect until the determination mentioned in Paragraph 6 below is made.

3. The Commission staff shall produce a report as required by Commission Rule 403.1.B in the form of proposed findings of fact and conclusions of law based on criteria in Commission Rule 403.1.A as well as specific geologic and hydrologic characteristics of the area judged by staff to warrant inclusion. The report shall contain a map showing recommended boundaries and the explanation of proposed action.

4. As required by the Arkansas Groundwater Protection and Management Act (Arkansas Code 15-22-901 *et seq.*), Commission Rule 403.1.C, and in compliance with the Administrative Procedure Act (Arkansas Code 25-15-201 *et seq.*) the Executive Director shall conduct a public hearing on behalf of the Commission in Arkansas County and shall provide for entry of written comments in the record of this proceeding.

5. The designation concerns two aquifers, the alluvial and the Sparta, so a separate analysis must be made for each. Each analysis is to be made according to Commission Rule 403.1 set out here in its entirety:

Section 403.1. DESIGNATION.

Using all pertinent data, an analysis will be made to determine those areas that have developed, or trends indicate they may develop, significant ground water depletion and/or degradation. Designating an area indicates that limitation of withdrawals through the use of water rights may be necessary in order to maximize the present and continued beneficial use of the area's remaining ground water resources.

A. Criteria used in an analysis leading to a recommendation of a critical ground water area will consist of, but not be restricted to, the following parameters:

1. Water Quantity:

(a) For water table conditions (unconfined aquifer): Average declines of one (1) foot or more have occurred annually for a minimum of five (5) years and/or water levels have been reduced such that fifty percent (50%) or less of the formation is saturated.

(b) For artesian conditions (confined aquifer): Average declines of one (1) foot or more have occurred annually for a minimum of five (5) years and/or the potentiometric surface is at or below the top of the formation.

2. Water Quality: Ground water quality has been degraded or trends indicate probable future degradation that would render the water unusable for the beneficial uses of the aquifer.

3. Projections/Hydrologic Boundaries: Consideration will be given to a safe yield of ground water pumping strategy for the aquifer including the utilization of a ground-water flow model, the natural hydrologic boundaries of the aquifer, and projected water-level declines.

B. A report shall be prepared based on criteria in Section 403.1 A as well as specific geologic and hydrologic characteristics of the area judged by Commission staff to warrant inclusion. The report shall contain a map showing recommended boundaries and the explanation of proposed action.

C. A public hearing will then be conducted within each county of the proposed area in accordance with the Administrative Procedures Act.

D. After consideration of all evidence, public comments, and recommendations of Commission staff, the Commission may issue an order designating the critical ground water areas and the boundaries thereof.

6. After consideration of all evidence, public comments, and recommendations of Commission staff, the Commission will determine, in the form of an order, what parts, if any, of Arkansas County will be included in the Critical Ground Water Area.

7. Copies of this Order shall be provided to the Arkansas County Circuit Clerk for filing in Case CIV-39 and to Mr. Russell D. Berry, Attorney at Law.

BY ORDER OF THE COMMISSION this 20th day of January, 2000.

**ARKANSAS SOIL AND WATER
CONSERVATION COMMISSION**

By: Corbet Lamkin
Corbet Lamkin, Chairman

ATTEST:

J. Randy Young, P.E.
Executive Director/Ex Officio Secretary