

## ADEQ Convenes Mtn. Home Public Discussion of Low-DO Issue

... few specifics and no action proposed; County Judge offers to help coordinate effort

"We are here tonight to try to get local citizens involved in identifying solutions that will work for you," said ADEQ Director Teresa Marks as she opened a forum in Mountain Home on December 1.

ADEQ convened the meeting for a "public discussion" on the long-standing Dissolved Oxygen deficiency in the Bull Shoals and Norfork Dam tailwaters.

But Marks said there is currently no state or federal agency identified as responsible to resolve it.

### Impaired Streams

Both the North Fork and White River tailwaters have been designated by the ADEQ as "impaired" because at certain times, the water's oxygen level drops below 6 ppm. Scientists have determined 6 ppm is the minimum level for survival of trout.

Both streams are legally-designated as "trout fisheries."

Water Division director Steve Drown said the low DO concentrations are due to water entering the streams from the upstream lakes - that they are "naturally-occurring phenomena" caused by water stratification due to temperature-gradients in the lakes themselves.

He said the water in the deeper levels of the lake often loses its oxygen when organic material on the lake's bottom gets digested in naturally-occurring processes. Then, when that deep water is siphoned for generation purposes, the water entering the rivers downstream may have

very little oxygen.

A representative of the AGFC explained the Corps of Engineers' operations staff have already taken measures to slightly improve the rivers' oxygen levels.

"But these easier measures won't be sufficient to fix the problem," he added. "It will take more."

### Three Alternative Solutions

Drown reviewed two alternative solutions that could solve the problem, and an audience member noted a third. The three solutions each have different cost structures, advantages and drawbacks:

- A "forebay infuser" system, which injects oxygen directly into the lake water at the point where generating water is drawn.
- An oxygen-injection system injects oxygen directly into the two tailwaters.
- A river-weir system, constructed in the tailwaters themselves.

### County Judge Steps Forward

Following extensive group discussion, Baxter County Judge Joe Bodenhamer and Quorum Court member Leon Alexander volunteered to help organize a local committee composed of representatives of interested groups. The committee would attempt a community consensus on one or more solutions.

Once those solutions are identified, the local group would work to identify and pursue funding sources for the measures.

## Thank You, David Haynes !

This December 2009 issue of the *River Report* is dedicated to the memory of David Eugene Haynes, *Friends'* first Communications Director.

David died on Friday, December 11 at age 61. Since his earlier diagnosis of Chronic Obstructive Pulmonary Disease, his health and strength had deteriorated. He was on oxygen, and frankly hated it.

*Friends of the North Fork and White Rivers* will be lastingly thankful to David for sharing his expertise and for his constant willingness to pitch in. Since August of 2007, he expertly guided the organization to a new level of database management, giving untold hours to the effort.

David was an avid gardener and a vital member of the Baxter County Master Gardeners. His wry sense of humor and subtle teasing caught many by surprise. He was a kind, generous and talented man. He will be missed.

"Thank you, David!"

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*Suggestions or photos for use in this newsletter would be appreciated. Send to Clay Parton, editor (cparton01@yahoo.com)*

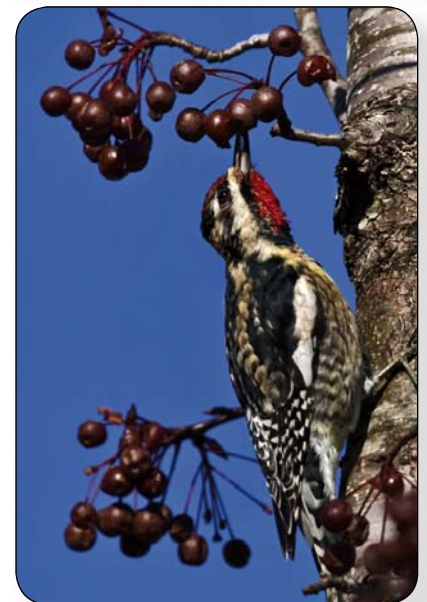


Photo by Rose Maschek

# RiverReport

## ADEQ Convenes Public Hearing on 35,000 gpd Processing Pond

... Bluebird Facility in IZard County focus of water and watershed fears

*NOTE: The practical inadequacy of Arkansas' approach to water protection and to regulating the mining industry became crystal-clear in a December public hearing. The hearing illustrated the key role of citizens, and of Friends.*

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By Gene Dunaway

ADEQ convened its first official public hearing for a new open-quarry frac-sand mining company, Bluebird Sand, LLC. (ADEQ's Powerpoint presentation is available at Friends' website.)

The hearing focused only upon a single component of the entire process -- the sediment pond where wastewater from the sand cleaning process will be collected and then will either evaporate, be reused, or, during high water events, overflow into nearby E. Lafferty Creek.

The hearing, held on December 3 at the Mt. Pleasant Community Center in IZard County, brought about 45 people to the Center. Included were Quorum Court members Justin Sanders, Karla Rush, James Elbert, James Simmons and Neil Olan.

### Already Under Construction

After first learning the large sand processing plant had already been built, attendees were told the sediment pond -- the subject of the "hearing" -- was already under construction.

ADEQ pointed out that the company was proceeding at its own risk, but the agency gave the impression that the plant was a "done deal."

After the hearing, Mo Shaffi, Assistant Chief of the Water division, told *Friends* Bluebird may have stopped construction on the plant several months ago, after only minor work on the pond. Shaffi said a full follow-up evaluation and report will soon be completed -- and he promised to update *Friends* when it occurs.

### Concerns about Wells and Springs

Several property owners on the creek expressed concerns about their water, wells and springs. The proposed facility will use between 25-35,000 gallons of water each day.

The pond has enough capacity to hold a 10 year 24 hour flood, which is about 6 inches of rain in 24 hours. When attendees commented that this kind of event has occurred on several occasions,

ADEQ acknowledged there would be some discharge into the watershed and eventually into local creeks.

### Too Little, Too Late

ADEQ admitted during the hearing that it does not monitor for compliance, but instead relies on citizens to report problems and then sends out inspectors. The company would be required to monitor and report their own water quality tests.

Regarding ADEQ's citizen-complaint process for monitoring sites, hearing participants said that since no one is allowed on the property, citizens would not know about a problem until it was too late.

There are only 14 inspectors in the entire state and thousands of permits.

Self reporting has been a major problem in other areas. Mis-reporting of tests became so severe that ADEQ shut down sites that were land-applying frac sand wastewater.

### Friends Request Denied

Friends' requested an extension of the comment period. ADEQ denied this request.

Friends President, Jerry Weber, also filed extensive comments on behalf of the organization (see related article).

ADEQ will respond to written and oral comments received at the meeting.

### Citizen Involvement Crucial

General permits are issued for most parts of the process with little attention to a particular site and no consideration of the cumulative effects in a watershed.

Without citizen-involvement, there would have been little attention to this site. The permits would have been issued without inspection, as a matter of course.

Quarry mining doesn't require a permit, only a "notice of intent" to mine, and a bond. Bluebird still needs to get one of these.

This "Mother may I" approach to environmental regulation does nothing to address more significant issues like aquifer depletion and the effects upon a fishery which the state is spending millions of dollars to support - and expects to attract tourists.

## Friends Questions ADEQ Permit Issuance

When Arkansas' Department of Environmental Quality (ADEQ) announced it was receiving public comments regarding a pending permit application, *Friends* advocates responded within days to submit official comments to the agency.

In Friends' official comments to the agency, President Jerry Weber said, "We understand that ADEQ has responsibility for maintaining water quality standards throughout the watershed. However, we are concerned about a "piecemeal" approach to a new industry that will have cumulative long-term impacts on multiple dimensions of environmental sustainability and protection of these standards under Regulation 2."

Added Weber, "We do not think our current approach to permitting is sufficient in this regard and urge ADEQ to initiate appropriate rulemaking with APC&EC to create a framework in which such an evaluation can take place, before any permits are granted."

### Advocates Got Involved, Too

Additionally, advocates used an online Friends-provided tool to electronically submit 65 official comments to ADEQ.

Most of those advocate-submitted comments asked ADEQ to carefully consider the proposed Bluebird Sand-Processing facility's design characteristics:

- Will the potential large discharge into E. Lafferty Creek negatively affect the watershed?
- Is the proposed pond sufficient to design for a 10-year rain event?
- Will the retention pond be allowed to overflow into a neighboring creek without first catching the pond's sediment?
- Will the pond's liner be assured as adequate to contain any pollutants?
- Will the ADEQ require a bond sufficient to reclaim the area in 20 years, if the company declares bankruptcy?

Friends' comments reflected the above concerns, but additionally requested ADEQ's acknowledgement of the Bluebird application as "incomplete," that ADEQ to look into applicant's reliability, given previous experiences, and expressed serious concern about aquifer depletion from these operations.

... A "Mother may I" approach to environmental regulation does nothing to address more significant issues ...

# RiverReport

## Mill & Piney Creeks: Will They Be Reclaimed?

... over a year after destruction and ADEQ involvement, nothing has been repaired

by Barbara Carlson

Take just a moment to close your eyes and picture your favorite spot on your favorite creek or river.

Sunlight makes the clear water sparkle. Dense and lush vegetation is green along the shore. Maybe you can even see a fish swimming along.

Now open your eyes and see: all of that beauty has been destroyed. A bulldozer has stripped the vegetation from your favorite place, and deep layers of sand and sediment have filled the fishing holes, killing fish and destroying their feeding grounds.

This is what people living on Mill and Piney Creeks experienced over a year ago.

In 2008, B&H Resources LLC destroyed all riparian vegetation and timber on a mile and half of creek bank, while waiting for a mining permit to be granted. Citizens complained, ADEQ issued an emergency cease and desist order, and bulldozing stopped. But severe damage had been done.

### Reclaiming Destroyed Streams

On June 19, 2008, ADEQ ordered a reclamation plan to repair and restore the creek bank. Citizens along the creek sighed with relief. Watching the destruction of their treasured creek had been a devastating experience. Since ADEQ had ordered a remediation of the damage, it would be okay, wouldn't it?

Sadly, no.

The operator submitted on April 8, 2009 a Streambank/Floodplain Rehabilitation Plan. A revised plan with a timeline starting in August 2009 was approved by ADEQ in October.

Estimated to take 21 months to

complete, the plan specifies five stages of activity.

### Nothing Is Happening

As I write this article in December, not one single thing has been done to fix the damage.

George Bartmess and James Hardy are listed on the original 2007 mining application as principles in B&H Resources LLC. Bartmess has previously been involved in several lawsuits (in Louisiana and Florida) involving environmental destruction. Hardy is now a principle in the newly created Evergreen Resources LLC, a company pursuing the same purposes as the original B&H Resources LLC.

An LLC is a "limited liability company" that protects the owners' individually for liability for damages caused by the company.

### Why?

The system designed to protect our valuable natural resources is not working. The looming question is "Why?"

We frequently interact with ADEQ staff, and we know that they are dedicated hard working individuals focused on their job. But the rules that govern their actions and the lack of funding to provide adequate staffing limit their effectiveness. If we truly want to protect our environment, we must work to provide additional funding for ADEQ. And we must pursue regulatory changes when the laws no longer meet today's needs.

Citizens cannot perform ADEQ's job but ADEQ cannot perform their job without our help.



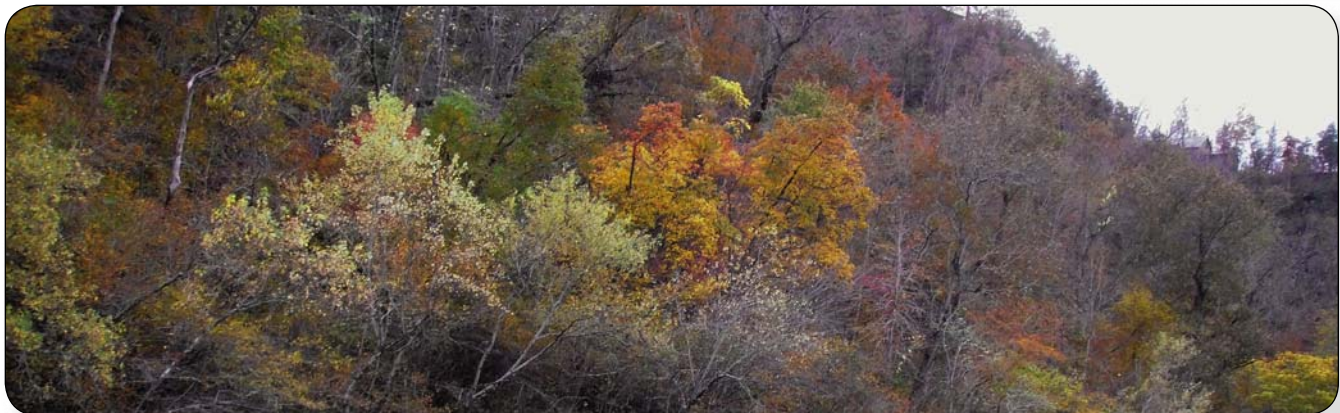
Site of an earlier mining operation operated by one of the principals of the proposed Bluebird Frac-Sand Processing Facility

### Reclamation Plan Submitted

- Initial Erosion Control,
- Vegetated Buffer,
- Establishment of 100 Foot Riparian Buffer,
- Shrub Planting and
- Planting Remaining Cleared Areas with Native Warm Season Grasses.

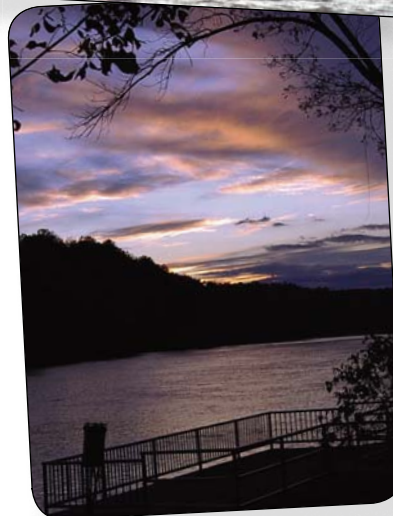
### Release of Liability ?

In its plan, B&H requests ADEQ to release it from any further liability. ADEQ approved the plan. The plan approval does not specifically address the agency's release of B&H from liability.



Beautiful fall colors are typical along undisturbed Ozarks streams. (Photo Clay Parton)

# RiverReport



(Photos Annette Pettit)

## A Great Fall Day Together on One of the Rivers We All Love

Sunday, October 25th brought together 40-plus members of Friends of the North Fork and White Rivers, for its first annual "River-Float/Social/Dinner."

Mike Tipton volunteered to coordinate the day, and many others donated boats, food, facilities and time to help make it happen. River history lover, guide and Rim Shoals Resort owner, Gary Flippin was instrumental in hosting this first trip.

After sharing mimosas and homemade pastries on the Wildcat Shoals Access riverbank, the group of river-lovers departed for a leisurely float down the river to Rim Shoals.

Along the way, we followed our progress in a "River Journal," created to help us understand the stretch's geology, history and landowner conservation practices.

At the take-out point, the group laughed over a sunset happy-hour, and licked their fingers during a riverbank BBQ feast. The evening concluded with a starlight visit under a beautiful pavilion, with a fire burning nearby.

### Being together on the river –

Jane Darr, Friends Vice President, said "Originally Friends set out to create an experience on the river that would allow

us to spend time together. So much of our work and action as an organization uses electronic communication and we wanted to see one another and be together – on the water."

"Not only did we get to do that, but we got a beautiful fall day in the Ozarks, peppered with history and examples of effective conservation practices," she added.

### Choices for Riparian Buffers

Many of the group came away with visual memories of landowner choices in the landscaping, vegetative plantings, riprap and other riparian buffer management options. (A Riparian buffer is a vegetated area that exists next to a waterway – a buffer between upland activities (agriculture or development) and the stream corridor.

### More Information

To learn ways to protect your land investment, your streambanks and riversides, and to know how to proceed:

- Access "Living with Land and Water in the Ozarks: a landowner's guide to streamside living." (available on Friends website)

## Friends Forms "Defense Fund"

Friends recently "put our money where our mouth is" and established a special "Watershed Defense Fund," to be used for experts who understand the complex issues we face.

As more and more threats continue to appear in our watershed, it becomes critical to increase our capacity to retain the best people, and get the best counsel our efforts deserve.

Expenditures will be subject to the Board approval.

Remember, we are dealing with entities having million-dollar budgets and 24/7 horsepower.

Friends has been supported almost exclusively by YOU, its members, and the volunteer time of its Board and active members -- through thousands of volunteer hours each year.

We are extremely fortunate to have attorneys, engineers, educators, consultants, expert witnesses and others who give their time for free or at reduced cost in recognition of the importance of our efforts.

Please consider making a contribution to this important fund. You can contribute securely online at: [www.friendsoftherivers.org/DefenseFund.html](http://www.friendsoftherivers.org/DefenseFund.html)

# RiverReport

## Go With the Flow

by John Gulley

The talk around the White River tailwaters these days is all about minimum flow. Touted as the solution to the low levels of dissolved oxygen, the issue is complicated and has implications beyond water flow and fish habitat. To those of us who worked and fought so hard to bring minimum flow to the White and North Fork Rivers (myself included), I now say, "be careful what you ask for---we may get more than bargained for."

### Minimum Flow Mixed Blessing

Minimum flow on the White River is promising and offers expanded habitat due to increased water flow over gravel shoals and possibly increased dissolved oxygen levels downstream -- but not necessarily at the dam where DO levels are most depleted.

The White River is long and wide. The water level at minimum flow has room to expand and flow without reaching the outer banks, and most likely will not result in erosion of the shoreline. Most boat fishers can float a ten mile or more stretch of water, fishing all day without motoring upstream until time to load up and head for the house. However, the minimum flow water may restrict wade fishing to specific areas and make it a more dangerous activity.

The North Fork River is a different story. It's a narrow 4.8 mile stretch of water. Minimum flow water will spread to the outer banks in most areas, resulting in more erosion of the shoreline. Unlike floating on the White River, boaters on the Norfork make numerous short trips up and down the river stirring up the water and further increasing shoreline erosion. Wade fishing on the Norfork with minimum flow will become a game of SURVIVAL with motoring boats, increased water velocity, and decreased ability to detect



Photo Ben Levin

changes in water generation—that little siren at the dam can't be heard two miles downstream, especially with jet boats in the background.

### The Threat of Jet Boats

Speaking of jet boats, we've been fortunate that recreational jet skis have not invaded our peaceful waters. But this could change with minimum flow---without the risk of being stranded on low water the jets will invade. Ask folks who visit the Eleven Point River during the summer months what jet skis do to fishing and canoeing.

Jet skis and jet boats can move at high rates of speed in very shallow water. Imagine a leaf blower on the bottom of a bathtub, the jets will dislodge vegetation and insect life from the bottom of the

river in shallow areas, destroying aquatic habitat.

In my opinion, the only way minimum flow would benefit our rivers, especially

the North Fork, would be to pair it with boating restrictions during minimum flow--prohibiting the operation of jet boats and jet skis. I come to this conclusion after careful observation during thirty-plus years of guiding fly fishers on the White River system.

*Editor's note: this opinion-piece, by a well-respected and experienced fishing guide (and founding member of Friends of the North Fork and White Rivers), reflects the board-adopted position supporting Minimum Flow projects.*

*"the only way minimum flow would benefit our rivers, especially the North Fork, would be to pair it with boating restrictions during minimum flow"*

## Climate Change Forum Planned in Mountain Home

... hosted by National Wildlife Federation

"Economics of Climate Change on Arkansas' Wildlife and Ozark Fisheries" will be the central theme at a February 26 event to be hosted by the National Wildlife Federation in Mountain Home.

The forum will take place at the ASU-MH campus from 5:30 to 8:30 pm.

### Expert Presentations

The AWF has said it plans for several experts to discuss these climate-change topics:

- Impacts on wildlife in this region (Dr. Jim Bednarz, Director of the Wildlife Ecology and Management Program at the Arkansas State University)
- Impact on Smallmouth Bass fisheries (Steve Filipek, AGFC Assistant Chief of Fisheries)
- Impact on trout in Arkansas' tail waters (Jeff Williams, AGFC trout biologist)
- Importance of Ozark fisheries to the area economy (Business leaders from the area)
- National perspective on climate change (National office, TU and the NWF)

Every year, more than 1.4 million people spend over \$2 billion on hunting, fishing and wildlife viewing in Arkansas.

Said AWF's Ellen McNulty, "The value of hunting and fishing to Arkansas' economy goes well beyond recreation dollars, providing the cultural identity that keep people and businesses in the state."

For more information about this event and other ways to advocate for comprehensive climate change that will protect Arkansas' hunting and fishing heritage for future generations, call or email McNulty at 870-329-1396 or awf.ellen.mcnulty@gmail.com.

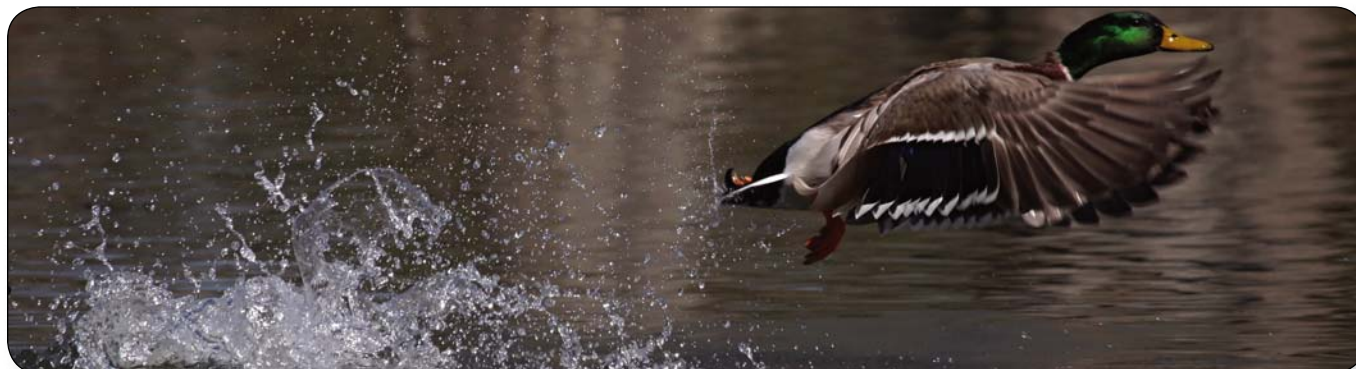


Photo Rose Maschek

# RiverReport

## Sponsor a New Friend of the Rivers !

Your paid membership in Friends is so important. The larger and more diverse our member base, the more impact we can have on policy-making.

Currently membership dues are our sole financial source for undertaking educational and policy initiatives.

Each membership includes a printed copy of our quarterly newsletter, alerts regarding conservation issues in the state or region and means to partner with other citizens like you who love these streams.

Join either online at our website (friendsoftherivers.org), or use the form below.

*We need you!*

## Corps to Conduct EIS on Lee Creek's Pine Mountain Dam

*... asking for comments and suggestions from interested parties*

The Corps of Engineers has asked for comments regarding alternatives to a proposed dam on Lee Creek. Their request did not set a deadline.

The dam, originally authorized in 1965, has lain dormant due to lack of a "local partner." The River Valley Water District has offered to be a partner.

This comment period offers the chance to suggest alternative solutions.

The Corps will prepare an Environmental Impact Statement (EIS) for the Pine Mountain Dam, Arkansas. The EIS will evaluate the effects of all viable water supply alternatives, including the

construction of the Pine Mountain Dam and Lake. Anticipated significant issues to be addressed in the EIS include impacts on:

- water supply,
- recreation and recreation facilities,
- stream hydraulics,
- fish and wildlife resources and habitats, and
- other impacts identified by the public.

Email or mail Ms. Laura Cameron, USACE, Little Rock District, PO Box 867, Little Rock, AR 72203-0867 (laura.l.cameron@usace.army.mil).

### Join Friends of the North Fork & White Rivers

Name (please print) \_\_\_\_\_

Address \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Home or Cell Phone numbers \_\_\_\_\_

E-Mail address (for electronic news) \_\_\_\_\_

**Membership Levels** - (Membership dues and any donations are tax-deductible)

- Individual Annual Membership - \$25.00
- Family Annual Membership - \$35.00
- Partnership Annual Membership - \$100.00
- Life Membership - \$500.00
- Business/Organizational Membership - \$50.00
- Donation (\$ \_\_\_\_\_) - Donations are appreciated!

**Mail to Friends of the North Fork and White Rivers PO Box 61, Mountain Home, AR 72654**

**Signature/Date:** \_\_\_\_\_



*A fall day on the banks of the White River (Annette Pettit)*

**ADDRESS CORRECTION REQUESTED**

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

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