



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Open Cut Land Reclamation Act Enforcement: Arkansas Department of Environmental Quality and Washington County, Arkansas Property Owners Enter into Consent Administrative Order

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The Arkansas Department of Environmental Quality (“ADEQ”) and Lloyd and Betty Thurman (“Thurman”) entered into a February 21st Consent Administrative Order (“CAO”) addressing alleged violations of Arkansas Pollution Control and Ecology Commission Regulation 15 and the Open Cut Land Reclamation Act (“Act”). See LIS 18-017.

The CAO provides that the Thurmans are the owners of property (“Site”) located in Prairie Grove, Arkansas.

ADEQ was stated to have received a complaint on September 20, 2016, that the Thurmans were conducting open-cut mining operations at the Site. The mining of red dirt was stated to be occurring without an open-cut mining permit, in violation of Reg. 15.502(B)(2) and Ark. Code Ann. § 15.57-304(a)(1) and (2).

Open-cut mining permit applications are stated to have been provided to the Thurmans along with a copy of the inspection report. The Thurmans stated that mining would be stopped and the site reclaimed to a natural landscape.

A November 1, 2016, follow-up inspection is stated to have been undertaken to determine if the Site was being reclaimed. No signs of reclamation work were stated to be identified. Another complaint is stated to have been provided to ADEQ on November 22, 2016.

The CAO requires the Thurmans to immediately cease commercial mining operations at the Site. Further, upon the effective date of the Order, the Thurmans are required to begin:

. . . reclamation of the affected area at the Site. Additional material may be removed in order to shape the pond area into the configuration that the Respondents desire. The highwall of the pond next to the entrance road will not be required to be sloped if a five strand wire fence or other similar barrier is installed between the highwall and entrance road for safety purposes.

Further requirements are detailed for the grading of slopes into the pond and revegetation.

A civil penalty of \$750 is assessed.

[A copy of the CAO can be downloaded here.](#)