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Stormwater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Faulkner County Mining Site Operator Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and J’s Construction Company (“JCC”) entered into a May 18th Consent Administrative Order (“CAO”) addressing an alleged violation of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 20-152.

The CAO provides that JCC operates a commercial mining site (“Site”) in Faulkner County, Arkansas.

In accordance with 40 C.F.R. § 122.26(c) as adopted by Arkansas Pollution Control and Ecology Commission Regulation No. 6, dischargers of stormwater associated with industrial activity, as defined by 40 C.F.R. § 122.26(b)(14)(i-ix, xi), are required to obtain coverage under the NPDES Industrial Stormwater General Permit ARR000000.

DEQ is stated to have received a complaint that a large shale pit was operating on Rocky Gap Road and creating a muddy runoff from the Site. The complaint is also stated to have cited offsite tracking. Additional complaints are stated to have been received regarding dump trucks leaving the Site with no designated clean-off area and the roadway covered with muddy debris. Also referenced was a road covered in packed shale and muddy runoff in a ditch.

DEQ is stated to have conducted a Reconnaissance inspection of the Site which allegedly identified:

1. Stormwater drainage is leaving the Site; and
2. Respondent is operating the Site without a permit in violation of Ark. Code Ann. § 8-4-217((1)(C) and therefore in violation of Ark. Code Ann. § 8-4-217(a)(3)

JCC submitted on April 8th a response to DEQ stating that a Notice of Intent (“NOI”), Stormwater Prevention Plan (“SWPPP”), and permit fee were submitted.

The CAO requires that JCC comply with the NPDES Industrial Stormwater General Permit AR000000 until DEQ issues a Notice of Coverage to JCC. A civil penalty of \$1,000 was assessed which could have been reduced to \$500 if the CAO was signed and returned to DEQ within 20 days of its receipt.

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