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

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Thomas D.B. Collins LTD (Kensington Subdivision) (“Kensington”) entered into a July 9th Consent Administrative Order (“CAO”) addressing alleged violations of a Stormwater Construction General Permit. See LIS No. 20-160.

The CAO provides that Kensington operates a construction site (“Site”) in Saline County, Arkansas.

The Site is subject to Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permitting requirements. DEQ is stated to have issued Stormwater Construction General Permit (“Permit”) coverage to Kensington for discharge of water into waters of the state pursuant to NPDES Stormwater Construction General Permit Tracking Number ARR155406.

DEQ conducted an inspection of the Site on March 16, 2017, which is stated to have indicated the following violations:

- The Notice of Coverage and Stormwater Pollution Prevention Plan (“SWPPP”) were not posted at the Site entrance or visible to the public.
- The SWPPP has not been updated to reflect the current disturbed acreage.
- Site stabilization, erosion, and stormwater controls were not installed or being implemented as described in the SWPPP.
- Inspections were not being conducted in accordance with the Permit.
- Kensington had not properly operated and maintained the Site as required by the Permit as demonstrated by silt fences and check dams not properly installed and maintained.

DEQ is stated to have notified Kensington of the inspection results and the reply from the company is stated to have failed to adequately address the alleged violations.

A second request is stated to have adequately addressed the inspection issues.

A DEQ inspection was subsequently conducted on December 29, 2017, and allegedly identified the following violations:

- Stabilization methods, described in the SWPPP, were not implemented to the disturbed areas in a timely manner.
- Velocity dissipation devices had not been installed at discharge points within concentrated flow areas serving more than two acres as described in SWPPP and Site map.

Information was exchanged between DEQ and Kensington which is stated to have adequately resolved the compliance issues documented in the inspection.

DEQ conducted an inspection on October 28, 2019, and allegedly identified the following violations:

- The Notice of Coverage and Stormwater Pollution Prevention Plan were not posted at the Site entrance or visible to the public.
- Kensington has not properly operated and maintained the Site as required by the Permit as demonstrated by the improperly installed and maintained silt fences, check dams, sedimentation basins, and sediment traps.
- The construction Site entrance was not sufficiently stabilized to prevent off-site tracking.

Information was subsequently exchanged between DEQ and Kensington which is stated to have inadequately addressed the violations referenced in the inspection. Further, the CAO provides that Kensington has failed to remit certain stormwater construction permit fees.

The CAO requires that on or before the date of the document that Kensington pay the required stormwater permit fees and operate the Site in accordance with the terms and conditions of the Permit. Further, Kensington is required to submit to DEQ a revised SPPP along with monthly progress reports documenting ongoing good housekeeping and corrective actions to ensure silt and sediment are not leaving the Site.

A civil penalty of \$7,300 is assessed which could have been reduced to one-half if the CAO was signed and returned to DEQ within 20 calendar days of receipt of the document.

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