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Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Sevier County Open Cut Mining Operation Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment - Division of Environmental Quality (“DEQ”) and Cossatot Rock, LLC (“Cossatot”) entered into a January 21st Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 21-010.

The CAO provides that Cossatot operates an open cut mining operation (“Facility”) in Sevier County, Arkansas.

The Facility is stated to have authorization to discharge sand and gravel wash water and stormwater runoff to an unnamed tributary that eventually flows to Milwood Lake. The Facility is regulated pursuant to an NPDES permit.

The NPDES permit is stated to have been issued to Cossatot on June 23, 2015, and expired on June 30, 2020.

Part III, Section D, Condition 10 of the NPDES permit requires Cossatot to submit a complete permit renewal application at least 180 days prior to the expiration date of the permit if the activity it regulates will continue after the expiration date. Cossatot is stated to intend to operate the facility beyond the expiration date of the current permit, June 30, 2020.

DEQ is stated to have received an application for renewal from Cossatot on December 31, 2019. The renewal application is stated to have been deemed incomplete by DEQ. Subsequently Cossatot submitted a complete renewal application on June 17, 2020.

The complete renewal application was not received by January 2, 2020, therefore allegedly violating Part III, Section D, Condition 10 of the Permit.

DEQ is stated to have conducted a routine compliance evaluation inspection of the Facility on May 19, 2020. The agency allegedly documented the following violations:

1. Respondent does not have an operator with a Basic Industrial Wastewater License to operate the Facility. Failure to maintain a Basic Industrial licensed operator is a violation of Part II, Condition I of the Permit. Failure to provide adequate operating staff that is duly qualified to carryout operations at this Facility is a violation of Part III, Section B, Condition I(B) of the Permit, Each of these violations constitutes two (2) separate violations of Ark. Code Ann. § 8-4-217((3).
2. Trees and vegetation were growing along the berms of the treatment pond. Failure to operate and maintain the facility properly is a violation of Part III, Section B, Condition I(A) of the Permit and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

Cossatot responded to DEQ's inspection results by a July 14, 2020, letter and provided photographs showing that the vegetable along the berms of the pond had been removed.

The Order requires that Cossatot obtain the services of a wastewater operator with a minimum of Basic Industrial Wastewater License issued by DEQ. It is further required to provide to DEQ a copy of the contract between the licensed operator and Cossatot and a copy of the license. Further, Cossatot is required to comply with the existing NPDES permit until either the effective date of the permit renewal or the effective date of the permit termination.

A civil penalty of \$2,000 is assessed which could have been reduced to one-half if the FAO was signed and returned to DEQ with 20 calendar days of its receipt.

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