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Wastewater Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality and Pulaski County Sand Mining Facility Enter into Consent Administrative Order

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The Arkansas Department of Energy & Environment - Division of Environmental Quality ("DEQ") and Jeffrey Sand Company ("JSC") entered into a May 24th Consent Administrative Order ("CAO") addressing an alleged violation of a Clean Water Act National Pollutant Discharge Elimination System ("NPDES") permit. See LIS No. 22-061.

The CAO provides that JSC operates an industrial and mining Facility ("Facility") in Pulaski County, Arkansas. The Facility discharges treated commingled stormwater and sand-washing process water to an unnamed tributary which eventually flows to the Arkansas River.

The discharge is regulated pursuant to an NPDES permit.

DEQ is stated to have issued an NPDES permit to JSC on June 23, 2017, with an effective date of July 1, 2017. The NPDES permit was modified and issued with an effective date of January, 2019, and modified again and issued with an effective date of June 1, 2021. The NPDES permit expires on June 30, 2022.

Part III, Section D, Condition 10 of the NPDES permit requires JSC to submit a complete permit renewal application at least 180 days prior to its expiration date if the activity it regulates is to continue after the expiration date. JSC is stated to intend to continue to operate the Facility beyond the expiration date of the current permit, June 30, 2022.

JSC is stated to have submitted a permit renewal application to DEQ on March 30, 2022. DEQ notified JSC on April 4, 2022, that the permit renewal application was incomplete. The permit renewal application is stated to have lacked the following information:

- DEQ Form 1, Section B.2 requires submittal of a topographic map. This map must show a minimum of one mile around the property boundary of the facility. The discharge location must also be marked.
- DEQ Form 1, Section E requires submittal of a disclosure statement. Simply stating that one was recently submitted is not sufficient.

The complete permit renewal application is stated to have not been received by January 1, 2022. This is alleged to constitute a failure to submit the permit renewal application by January 1, 2022.

The CAO requires that on or before its effective date that JSC submit an administratively complete permit renewal application. Further, it 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 \$1,000 is assessed which could have been reduced to \$500 if the CAO was signed and returned to DEQ within 20 calendar days of its receipt.

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