

# Arkansas Department of Energy & Environment v. U.S. Environmental Protection Agency: U.S. District Court Grants Joint Motion to Stay Case



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As noted in an April 27th blog post, the Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) filed a Complaint for Declaratory and Injunctive Relief in the United States District Court (Eastern District – Arkansas) against the United States Environmental Protection Agency (“EPA”). See Case No. 4-22-cv-359(BMS).

The action arose out of objections EPA raised to Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permits issued to the City of Springdale (“Springdale”) and Northwest Arkansas Conservation Authority (“NWACA”).

As will be discussed below, DEQ and EPA filed on August 22nd a Joint Motion to Stay Case which was granted.

DEQ’s action in the United States District Court contends EPA’s objections to the two NPDES permits were procedurally defective because they were raised after the review period provided by the Memorandum of Understanding between the agencies. The Complaint for Declaratory and Injunctive Relief sought preliminary and permanent injunctions ordering EPA to withdraw its objections to the Springdale and NWACA NPDES permits.

The United States Department of Justice (“DOJ”) on behalf of EPA had filed on May 20th a Motion to Dismiss to which DEQ on June 3rd responded. United States District Court Judge Brian S. Miller issued an Order on July 1st denying EPA’s Motion to Dismiss. Further, the Order provided that the parties had until July 8 to confer and provide a date for a hearing on DEQ’s Motion for Preliminary Injunction.

DOJ and DEQ subsequently filed a document styled:

Joint Motion to Establish Briefing Schedule for Summary Judgment

As a result of the Joint Motion, EPA agreed to:

. . . stay further administrative activities pending an outcome on the merits of the case. . . (i.e., no further EPA action on the Springdale or NWACA NPDES permits, including publishing or scheduling an administrative hearing until a summary judgment decision.)

The Joint Motion set out a schedule for the parties to file their motions/briefs related to summary judgment and the Court issued an Order adopting the briefing schedule.

On August 22nd DEQ and DOJ on behalf of EPA filed a “Joint Motion to Stay Case” (“Joint Motion to Stay”) which asks that the Court stay proceedings for 60 days to:

. . . allow the parties to explore whether a basis for settlement of the action exists.

The Joint Motion to Stay also states that the parties would file a status report with the Court apprising it of the status of discussions within three days after the end of the 60-day stay. The parties reserve the right to extend the stay beyond 60 days to allow further discussions.

The United States District Court granted the Joint Motion to Stay on August 23rd. Therefore, the case is stayed and the parties are directed by the Court to provide a status update within 60 days.

A copy of the Joint Motion to Stay can be found [here](#) and the Order [here](#).