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Washington County Landfill Expansion: Eco-Vista, LLC, and Arkansas Department of Energy & Environment - Division of Environmental Quality Responses to Petitioners Joint Second Motion for Summary Judgment

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As noted in [April 19th](#) and [April 18th](#) blogs, the Mayor of Tontitown and certain individuals (collectively, “Petitioners”) filed separate requests for an Adjudicatory Hearing and Commission Review before the Arkansas Pollution Control & Ecology Commission (“APC&EC”) challenging the Arkansas Department of Energy & Environment – Division of Environmental Quality’s (“DEQ”) issuance of a permit for the Eco-Vista Landfill (“Eco-Vista”) in or near the City of Tontitown, Washington County, Arkansas. See Consolidated Docket No. 23-008-P.

The permit has been described as involving the expansion of the Eco-Vista Landfill.

The Petitioners referenced above filed on August 22nd a pleading styled:

Individual Petitioners and Mayor Russell and the City of Tontitown’s Joint Brief in Support of Second Motion for Summary Judgment (“Brief”)

See [August 24th](#) blog post.

The Brief sought summary judgment on three points:

1. DEQ Fails to Address APC&EC Rule 22.203 in its Permitting Decision
2. The July of 2018 Tontitown Resolution Does Not Meet APC&EC Rule 22.203 Requirements
3. The August of 2023 Tontitown Resolution Does Meet APC&EC Rule 22.203 Requirements

The Petitioners requested that the Administrative law Judge grant summary judgment.

Eco-Vista’s response argues that the Petitioners’ Rule 22.203 “suffer from two key problems.” Those are argued to include:

1. The arguments are not consistent with the plain language of the rule.
2. Petitioners are mistaken as to where the burden of proof lies.

DEQ's response to Petitioners' Motion for Summary Judgment argues:

1. APC&EC rule 22.023(e) is a pre-application rule and is applicable at the local level.
2. Tontitown Resolutions 2022-11-1017R and No. 2023-01-1027R were not in compliance with 22.203(e) and were offered past the pre-application deadline for consideration.
3. Tontitown Resolution 2023-08-1071R is irrelevant at this stage in the permitting process.

Both Eco-Vista and DEQ request that the Administrative Law Judge deny Petitioners' Joint Second Motion for Summary Judgment.

A copy of both pleadings can be downloaded [here](#).