



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Storm Water Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality and Dewitt Cryptocurrency Mining Facility Operator Enter into Consent Administrative Order

04/11/2024

The Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) and Jones Digital, LLC (“Jones”) entered into an April 5th Consent Administrative Order (“CAO”) for addressing alleged operating without a clean water act National Pollutant Discharge Elimination System (“NPDES”) permit. See LIS No. 24-061

The CAO provides that Jones operates a Small Construction Site as defined in the NPDES storm water Construction General Permit (“General Permit”) for a cryptocurrency mining facility (“site”) in Dewitt, Arkansas.

Storm water from construction activities at the site is stated to flow to Holtbranch and then to La Grue Bayou. The site is stated to be subject to regulation pursuant to the National Pollutant Discharge Elimination System.

DEQ is stated to have conducted a reconnaissance inspection of the site on October 16, 2023. The inspection is stated to have identified the following violations:

- Operating a small construction site without coverage under the General Permit in violation of the Arkansas Water and Air Pollution Control Act.

Jones is stated to have inquired of DEQ on October 30, 2023 if coverage under the General Permit was necessary, as the site map they provided documented it as less than one acre.

DEQ notified Jones that the site's construction activities were greater than one acre but less than five acres therefore qualifying Jones for Permit Coverage under the General Permit for small construction sites. Jones is stated to have submitted to DEQ a stormwater pollution prevention plan (“SWPPP”) including best management practices (“BMPs”) and a corrected site map.

DEQ is stated to have conducted a construction storm water inspection of the site on November 9, 2023. The inspection is stated to have identified the following violations:

- A NOC and a copy of the SWPPP were posted at the entrance of the site on November 8, 2023.

- The NOC indicated that construction activities began on September 28, 2023, and therefore the site was considered unpermitted from September 28, 2023 through November 7, 2023 violating the Arkansas Water and Air Pollution Control Act.
- The SWPPP indicated that silt fencing would be used as sediment control around the construction site but at the time of inspection, the silt fencing had not been installed all the way around the site, in violation of the general permit.
- DEQ notified Jones of the resulting inspection to which responses were submitted.

Jones is stated to have acknowledged the factual allegations in CAO but does not admit that it discharged pollutants in violation of the Arkansas Water and Air Pollution Control Act or Federal Clean Water Act.

The CAO requires that Jones immediately comply with all General Permit requirements and maintain satisfactory BMPs to mitigate and prevent sediment-laden stormwater from leaving the site. Further, on or before the 15th day of the month following the effective day of the CAO and each month thereafter for a period lasting until CAO is closed. Jones must submit monthly progress reports documenting the ongoing good housekeeping and all corrective action to ensure that silt and sediment are not leaving the site. In addition, upon completion of construction activities, the site and stabilization of disturbed areas is required by the General Permit, Jones is required to submit a notice of termination to DEQ.

The civil penalty of \$3,600 is assessed which could have been reduced to one half 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](#).