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Wastewater Plant/Subdivision: Faulkner County Circuit Court Action Filed Alleging Prospective Nuisance/Trespass Associated with Permitted Discharge

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The James Howard Mize and Patricia Dean Mize Joint Revocable Trust (“Trust”) filed in the Circuit Court of Faulkner County, Arkansas on August 19th a Complaint against the following two corporations and one individual:

- Arkansas Composites, Inc. (“ACI”).
- Waste Water Management, Inc. (“WWMI”).
- Alan McEntire.

The Trust is stated to own eighty acres in Faulkner County, Arkansas situated north of Conway. ACI is stated to own forty acres also situated north of Conway.

The individual is stated to have formed ACI to develop a 150-home subdivision. It is stated to be located in the natural watershed of Lake Conway.

ACI is stated to have conveyed two acres to WWMI for the construction of a wastewater treatment plant for the subdivision. Further, the Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) stated to have issued a construction permit for a wastewater treatment plant in 2022.

The Complaint states that the proposed wastewater treatment plant will have a capacity of 0.04158 million gallons per day. It (according to the Complaint) will discharge its wastewater effluent into what is describes as a:

...small, ephemeral unnamed tributary that runs through the Trust’s property and discharges into Lake Conway.

Except for a periodic stormwater flow, it is alleged that the effluent discharge would constitute the majority of flow of the unnamed tributary on and through the Trust’s property.

The Complaint alleges that the discharge will:

- Cause or contribute to contamination and degradation of the unnamed tributary on and through the Trust’s property affecting the health and safety of persons living on that property as well as their pets and livestock.

- Cause or contribute to the possible contamination of Lake Conway.

The Complaint asserts that the issuance of the permit to construct the wastewater treatment plant by DEQ does not:

...preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established to pursuant to any applicable state law or regulation under the authority preserved by Section 510 of the Clean Water Act or convey any property rights of any sort, or any exclusive privileges, nor does it any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

The causes of action alleged by the Complaint include:

- Nuisance.
- Trespass.

The Complaint requests a Declaratory Judgment along with a Temporary Restraining Order and/or Preliminary Injunction.

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