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Stormwater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Saline County Subdivision Developer Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment - Division of Environmental Quality (“DEQ”) and Oltmans Development, Inc. (“ODI”) entered into a December 10th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) Stormwater Construction General Permit (“Permit”).

The CAO provides that ODI operates a large construction site (“Site”) in Saline County, Arkansas.

ODI is stated to discharge stormwater to an unnamed tributary of Dry Creek which eventually flows to the Saline River. The north fork on the Saline River is stated to be designated as an Ecologically Sensitive waterbody and an extraordinary resource water pursuant to Arkansas Pollution Control and Ecology Commission Rule 2.

ODI is subject to regulation pursuant to an NPDES Permit. ODI had submitted a Notice of Intent (“NOI”) and Stormwater Pollution Prevention Plan (“SWPPP”) for coverage under the previously referenced Permit in 2022. DEQ had issued Notice of Coverage to ODI.

DEQ is stated to have received a Complaint alleging on March 29, 2023, that ODI was operating without Best Management Practices (“BMPs”) in place to mitigate sediment-laden stormwater from leaving the Site. The Complaint is further stated to have alleged that no silt fencing was in place or erosion controls and that stormwater runoff was entering Dry Creek.

DEQ is stated to have conducted a construction stormwater inspection of the Site on May 3, 2023. The inspection is stated to have identified the following violations:

- Notice of Coverage (“NOC”) not posted at the Site in an area available to the public.
- No silt fencing was observed to prevent sediment-laden stormwater from leaving the Site.
- Evidence of sediment-laden stormwater leaving the Site and off-site tracking observed.
- Inspections not conducted at the frequency specified in the SWPPP.
- Accumulation of gravel noted at the unnamed tributary at Dry Creek.

DEQ is stated to have received an additional Complaint on May 25, 2023, alleging that ODI did not have environmental protectors installed to mitigate sediment-laden stormwater from leaving the Site. The Complaint had stated that the runoff had entered and discolored their pond.

ODI is stated to have not submitted a written response to DEQ when notified of the alleged inspection results.

An additional Complaint is stated to have been received on August 1, 2023, alleging the absence of environmental protectors installed to mitigate sediment-laden stormwater from leaving the Site. Dirt is stated to have been hauled onto the Site, and that runoff from the dirt had entered Dry Creek, slowing the flow of that waterbody. The Complaint further stated that ODI had created several small dams within the Creek which had redirected the flow of runoff.

DEQ is stated to have conducted a construction stormwater inspection of the Site on August 10, 2023. The inspection is stated to have identified the following violations:

- Inspections not being conducted at the frequency specified in the SWPPP.
- Sediment had left the Site.
- No silt fencing installed to mitigate stormwater runoff.
- Evidence of continued in-stream activity at the unnamed tributary Dry Creek.

In response to a September 21 DEQ notification, ODI submitted photographic documentation showing that the dams in Dry Creek had been removed. Further, on October 30, 2023, ODI submitted an updated Site map and copy of the latest Site inspection report to DEQ.

The CAO requires that ODI immediately comply with all Permit requirements. Further, ODI is required to provide a written response to the May 3, 2023, and August 10, 2023, inspections along with photographic documentation demonstrating that corrective actions have been taken to address the cited violations and that appropriate BMPs have been installed and maintained.

Quarterly monthly progress reports are required.

A civil penalty of \$8,400.00 is assessed, which could have been reduced by 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](#).