

# C&H Hog Farms, Inc. (Newton County, Arkansas): Cross Motions for Partial Summary Judgment in Arkansas Pollution Control and Ecology Commission Proceedings



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The parties litigating the denial by the Arkansas Department of Environmental Quality (“ADEQ”) of a Regulation 5 permit for the C&H Hog Farms, Inc. (“C&H”) before the Arkansas Pollution Control of Ecology Commission have filed motions for either partial summary judgment or a response to such motion.

The filings include:

- C&H’s Motion for Partial Summary Judgment
- ADEQ’s Response to C&H’s Motion for Partial Summary Judgment
- Intervenor’s Joint Response to C&H’s Motion for Partial Summary Judgment
- Intervenor’s Joint Motion for Partial Summary Judgment

As previously noted, C&H filed a January 18th Request for Adjudicatory Hearing and Commission Review challenging ADEQ’s denial of a Regulation 5 permit for a liquid animal waste management system at the company’s facility located near the community of Mt. Judea in Newton County, Arkansas ([see previous blog post](#)).

ADEQ is a party to the appeal supporting its decision to deny the permit. Further, the Ozark Society, Inc. and three individuals filed a January 26th Motion to Intervene in support of the denial of the permit ([see previous blog post](#)).

C&H’s Motion is based on certain facts it argues are not in dispute and states:

- The applicable laws and regulations provide for C&H’s continued coverage under the expired General Permit.
- ADEQ’s decision to not issue the Regulation 5 permit did not terminate C&H’s continued coverage under the expired NPDES General Permit.

ADEQ’s Response to C&H’s Motion disputes certain facts and states:

- C&H’s coverage under the expired NPDES General Permit continues only pursuant to the Commission’s stay of the Director’s final permitting decision denying their individual permit.

- Before the Director's final decision to deny C&H's Commission Regulation 5 permit application, C&H's coverage under the NPDES General permit continued pursuant to Ark. Code. Ann. § 8-4-203(m)(5)(D).

The Intervenor's argue in support of a Response to C&H's Motion for Partial Summary Judgment and its own Motion for Partial Summary Judgment:

- Coverage exists under a General Permit only until a permitting decision is made on an individual permit application and not until a permit is granted.
- Coverage under a General Permit terminates when an individual permit is denied.
- C&H misconstrues the federal regulations requiring General Permit holders to apply for individual permits.

A copy of the parties' motions can be downloaded below:

[C&H Hog Farms, Inc.'s Motion for Partial Summary Judgment](#)

[ADEQ's Response to C&H's Motion for Summary Judgment and Incorporated Brief in Support](#)

[Intervenors' Joint Response to C&H's Motion for Partial Summary Judgment and Intervenor's Joint Motion for Partial Summary Judgment](#)