

ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF C&H HOG)
FARMS, INC.)

DOCKET NO. 18-001-P
ORDER NO. 5

ORDER

On January 28, 2018, the Ozark Society, Inc., Dr. Alan Nye, Robert Cross, and Dr. David Peterson ("Ozark Intervenors") filed a Motion to Intervene in this docket. On January 30, 2018, the Buffalo River Watershed Alliance, Inc., the Arkansas Canoe Club, Gordon Watkins and Marti Olesen ("BRWA-Canoe Intervenors"), also filed a Motion to Intervene in this docket.

Regulation 8.604 provides the authority for the Ozark Intervenors and BRWA-Canoe Intervenors motions. According to Reg.8.604:

Reg.8.604 PERMISSIVE INTERVENTION

(A) Any person who submitted comments during the public comment period may petition in a timely manner for permissive intervention in an adjudicatory hearing.

(B) If no public comment period is provided, any person who reasonably considers himself or herself injured in his or her person, business, or property by any decision issued by the Director may also timely petition for permissive intervention in an adjudicatory hearing on the matter.

(C) The contents of a petition for Intervention shall be the same as that set forth in Reg.8.603(C)(1)(a), (b), (c), (d) and (e).

(D) A Petition for Intervention may be denied if it is not filed in the form and manner set out in Reg.8.603(C)(1).


On February 8, 2018, C&H Hog Farms, Inc. (C&H) filed a Response to Ozark Intervenors and BRWA-Canoe Intervenors. C&H does not claim in its Response that the Intervenors should not be allowed to intervene

in this appeal, but C&H does contend in its Response that the Intervenors participation in this case should be limited to those matters they commented on, and Intervenors should not be allowed to participate in C&H's claims regarding "procedural issues" with the permitting process.

After reviewing the pleadings filed thus far and listening to the arguments of counsel during the February 9, 2018, preliminary hearing, the ALJ finds that the Ozark Intervenors and the BRWA-Canoe Intervenors meet the requirements of Reg.8.604(A) and the contents of their respective Motions to Intervene and Request for Commission Review meet the requirements of Reg.8.604(C). At the time of the February 9, 2018, preliminary hearing Ozark Intervenors and BRWA-Intervenors did not have the opportunity to file a Reply to C&H's Response to the Motion to Intervene. Therefore, the ALJ reserves the issue on the limits of the Intervenors' participation in this docket until the issue has been fully briefed

IT IS SO ORDERED

This 9th day of February 2018


Charles Moulton
Administrative Law Judge

CERTIFICATE OF SERVICE

I, Patricia Goff, Commission Secretary, hereby certify that a copy of the foregoing Order No. 5, In the Matter of C&H Hog Farms, Inc.; Docket No. 18-001-P, has been mailed by certified mail or by first class mail, postage prepaid, to the following parties of record, this 9th day of February 2018.

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