

# C&H Hog Farms, Inc. (Newton County, Arkansas): Ozark Society, Inc. Intervention in Arkansas Pollution Control and Ecology Commission Proceedings



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The Ozark Society, Inc. and three individuals filed a January 26th Motion to Intervene and Request for Hearing (“Motion”) in C&H Hog Farms, Inc. (“C&H”) Request for Adjudicatory Hearing and Commission Review (“Request”).

C&H is challenging the Arkansas Department of Environmental Quality (“ADEQ”) denial of an application for a Regulation 5 permit.

The three individuals that joined the Ozark Society, Inc. in the Motion include Dr. Alan Nye, Robert Cross, and Dr. David Peterson (collectively with the Ozark Society, Inc. henceforth designated “Ozark Society”).

Ozark Society’s Motion argued that it satisfied the Regulation No. 8 standards for permissive intervention. It further states that it will support ADEQ’s final permitting decision denying C&H’s application for a Regulation No. 5 permit.

C&H filed a February 8th Response to the Motion and asked that Ozark Society’s Motion be denied. It argued that the Ozark Society did not comment on certain issues raised by C&H and is therefore barred by Regulation 8 from intervening to address those issues, stating in part:

The Intervenor’s are precluded from any arguments made during the adjudicatory review and appeal that were not included within their public comments. Therefore, to the extent arguments in their motions exceed or differ from their public comments, they should be denied.

Arkansas Pollution Control and Ecology Commission Administrative Law Judge (“ALJ”) Charles Moulton addressed the Motion and Response in a February 9th Order. See Docket No. 18-001-P (Order No. 5).

The ALJ granted the Ozark Society’s Motion to intervene. He further stated:

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 Intervenor’s and the BRWA-Canoe Intervenor’s 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 Intervenor’s and BRWA-Intervenor’s 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.

A copy of the [Motion](#), [Response](#), and [Order No. 5](#) can be downloaded here.