



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

## C & H Hog Farms, Inc. (Newton County, Arkansas): Request for Adjudicatory Hearing and Commission Review/Stay of Regulation 5 Permit Denial

12/19/2018

C & H Hog Farms, Inc. ("C & H") filed a "Request for Adjudicatory Hearing and Commission Review and Stay" ("Request") related to the Arkansas Department of Environmental Quality ("ADEQ") denial of its application for an Arkansas Pollution Control and Ecology Commission Regulation No. 5 Permit.

ADEQ is denying C & H's application for a Regulation No. 5 Permit for the second time.

C & H had previously appealed to the Arkansas Pollution Control and Ecology Commission which issued Order No. 14, stating:

ADEQ shall issue its denial of C & H's Regulation No. 5 Permit as a draft denial and accept public comment on that draft decision for a period of at least 30 days. . .

The C & H facility involves the operation of a swine facility in Newton County, Arkansas. Regulation No. 5 addresses "liquid animal waste management systems."

The company and ADEQ are currently involved in judicial litigation over previously denied permits for which the facility holds and/or has applied.

C & H's Request includes the following arguments styled as issues:

- The second permit decision was null and void with respect to C & H's continued coverage under the Reg. 6 permit and a stay should be issued.
- The second permit decision was null and void with respect to denial of C & H's application for a Reg. 5 permit and a stay should be issued.
- The decision to not issue the Reg. 5 permit was procedurally flawed because ADEQ failed to identify documents it relied upon, and failed to comply with the Freedom of Information Act during the comment period.
- ADEQ erred by finding that the application was deficient.
- ADEQ erred by determining that the C & H facility represents a "very high risk."
- ADEQ erred by determining that the C & H application was deficient with respect to water quality impacts and impairment.
- ADEQ erred by determining that there are deficiencies in the geological investigation
- Certain statements contained in the responsive summary do not reflect the rationale for the permit decision and should not be considered in this appeal, but to the extent that any of the responses to

comments are considered, they are inappropriate to support the permit decision, they are incorrect, and respondent objects to such responses.

- ADEQ erred by failing to respond to all comments.

A copy of the Request can be found [here](#).