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## Trafalgar/Stump Dump: Fredericks/Fredericks Construction Company, Inc.'s Joint Reply to Bella Vista Property Owners Association's Response to Motions to Dismiss

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Fredericks Construction Company, Inc. ("Fredericks Construction Company") and Thomas Fredericks ("Fredericks") filed a Joint Reply to the Bella Vista Property Owners Association's Response to Motions to Dismiss. See Docket No. 19-004-MISC.

The Bella Vista Property Owners Association ("POA") previously filed a pleading in which it challenged a Consent Administrative Order ("CAO").

The POA asked the Arkansas Pollution Control and Ecology Commission ("Commission") to conduct an adjudicatory hearing to review the CAO issued by the Division of Environmental Quality ("DEQ") in the matter of Thomas Fredericks and Fredericks Construction Company, Inc., Trafalgar Road Former Stump Dump Site ("Site").

The Site relates to what is described by the POA as the "former stump dump located on Trafalgar Road in Bella Vista, Benton County, Arkansas." It is further described by the POA as real property which is leased to Thomas Fredericks (as lessor) for what is referenced as a "stump, brush, rock, concrete, and stump and dirt dump."

The Site suffered an underground fire which was the subject of a DEQ emergency order issued in 2018. The POA and DEQ subsequently entered into a CAO in which the POA agreed to take the responsibility for remediating the Site pursuant to the Arkansas Remedial Action Trust Fund Act.

The POA challenged the CAO subsequently entered into between DEQ and Fredericks Construction and Fredericks related to the Site.

Fredericks' Joint Reply to the POA Response to the Motion to Dismiss argues that nothing in those filings identifies "any new, material piece of evidence that Director Keogh failed to consider when executing Mr. Frederick's CAO." They further argue that the POA bears the burden of proving this and that it has failed to do so.

The arguments in the Joint Reply include:

- Most of the POA's arguments are patently meritless
- Pieces of evidence identified by the POA constitute four items that are not new

- The POA's CAO was considered by Director Keogh
- The POA's use of the Freedom of Information Act only highlights their pleading deficiency
- The POA's appeal is a collateral attempt to save its Remedial Action Trust Fund Act claim pending in a separate jurisdiction

A copy of the Joint Reply can be downloaded [here](#).