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Stormwater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Jonesboro Sand and Gravel Aggregate Facility Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment - Division of Environmental Quality ("DEQ") and Hedger Operating Company, LLC ("Hedger") entered into a January 12th Consent Administrative Order ("CAO") addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System Industrial Stormwater General Permit. See LIS No. 21-005.

Hedger is stated to operate a sand and gravel aggregate site ("Facility") in Jonesboro, Arkansas.

The Facility is stated to discharge processed water and stormwater to an unnamed tributary of Mud Creek which eventually flows into the White River. Such discharge is stated to be regulated pursuant to the Clean Water Act National Pollution Discharge Elimination System ("NPDES").

DEQ is stated to have issued NPDES Industrial Stormwater and General Permit ("Permit") to Hedger for discharge of stormwater into waters of the state on June 30, 2014. A renewal of the Permit was subsequently issued which provides an expiration date of June 30, 2024.

DEQ is stated to have performed an Industrial Stormwater Inspection and Water Inspection on March 1, 2018, and identified certain alleged violations:

- A discharge from a levee breach of the stormwater pond was observed.
- Samples were collected at the culvert of the receiving stream instead of from the monitoring points specified on the Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP).
- The Stormwater Annual Report (SWAR) was unavailable during the inspection.

Hedger responded to DEQ's notification regarding the results of the inspection and the agency determined that the alleged violations were adequately addressed.

DEQ is stated to have performed Industrial Stormwater and Process Wastewater Inspections on May 30, 2019, and addressed certain alleged violations:

- A discharge from a levee breach of the stormwater pond was observed. Permit AR00B913 only authorizes discharges from Outfall 001.
- The water discharging from this levee breach was turbid.
- Failure to include certain required descriptions on the Site map.
- The Facility has process wastewater that was not described as a potential non-stormwater discharge.
- The SWPPP was not available at the time of the inspection.
- Erosion controls, including flow velocity dissipation devices, were not properly implemented in the stormwater ponds.
- Samples were being collected from the Craighead 764 roadside ditch and not at the permitted outfall.
- The routine visual site inspections performed by Facility personnel in 2018 did not document the deterioration that led to the levee breach.
- Comprehensive site inspections were not conducted on an annual basis.
- The levee breach that occurred on May 30, 2019, was not initially reported to DEQ.

Hedger and DEQ are stated to have discussed corrective actions that are needed on June 3, 2019, and referenced the installation of certain pipes for sampling purposes. In addition, DEQ is stated to have visited the Facility to observe a levee and expressed concerns over unstabilized ground.

In addition, a June 10, 2019, inspection is stated to have indicated evidence of erosion of the levee. Subsequent inspections are stated to have been conducted on June 18 and June 19, 2019, regarding the levee.

The CAO provides that a meeting was held at the Facility on June 20, 2019, to discuss process wastewater and how it was separated from the stormwater. DEQ allegedly observed certain operation and maintenance violations which included:

- A large amount of sediment had accumulated in the process water ponds; and
- Trees and other vegetation were observed in the process water ponds.

Hedger is stated to have provided a response to the May 30, 2019, inspection noting:

1. The levee was repaired and photographic documentation was submitted with the response.
2. Additional Best Management Practices (BMPs) were added to prevent the discharge of turbid waters. Stormwater is now diverted through vegetation and rock check dams before leaving the outfall. Photographic documentation of the new BMPs was provided with the response.
3. The site map was updated to include all of the missing information. A copy of the updated site map was provided with the response.
4. The SWPPP was updated to include measures that identify and eliminate the discharge of wastewater and other illicit discharges to waters of the state. Copies of the updated SWPPP pages were included with the response.
5. Copies of sampling results, employee training documents, and monthly inspection reports were included with the response.
6. Velocity dissipation devices were installed at the location where pond 1 discharges into pond 2. Photographic documentation was included with this response.
7. The individual responsible for collecting samples was trained on proper sampling techniques in accordance with Part 3.8.2 of Permit AR00B913. A copy of the training was provided with the response.
8. Facility personnel were trained to conduct proper site inspections and look for deficiencies. A copy of the training was provided with the response.

9. Comprehensive site inspections will be performed going forward.
10. In the future, non-compliance will be reported to DEQ within thirty (30) days.
11. A dredge was purchased, and employees have been trained on the dredge. The process water ponds will be dredged to address the sediment that has accumulated in those ponds.
12. The trees and other vegetation will be removed from the process water ponds.

DEQ subsequently requested a Correction Action Plan detailing certain actions that need to be undertaken.

Hedger submitted the Corrective Action Plan to DEQ which addressed the agency's concerns with a final compliance date of December 31st. DEQ approved the Corrective Action Plan.

The CAO requires the implementation of the Corrective Action Plan in accordance with the milestone schedule and requires that Hedger submit quarterly progress reports.

A civil penalty of \$4,760 is assessed which could have been reduced to \$2,380 if the CAO was returned to DEQ within 20 calendar days of the document's receipt.

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