



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

Stormwater Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality and Farmington Construction Site/Concrete Storage Facility Enter into Consent Administrative Order

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The Arkansas Department of Energy & Environment – Division of Environmental Quality (“ADEQ”) and M&S Properties, LLC (“M&S”) entered into an April 15th Consent Administrative Order (“CAO”) addressing alleged violations of Clean Water Act General Stormwater Permits. See LIS 24-063.

The CAO provides that M&S operates a construction site and concrete storage and loading facility (“Facility”) in Farmington, Arkansas.

M&S activities are stated to fall within the definition of “construction activities” in Part I, Section A of the NPDES Stormwater Construction General Permit (“Construction Permit”). Further, the CAO provides that M&S is required to have permit coverage for stormwater discharges associated with construction activities.

M&S activities at the site are also stated to fall within the definition of “industrial activities” in Part I, Section A of the NPDES Stormwater Industrial General Permit (“Industrial Permit”). Therefore, M&S is stated to have been required to have permit coverage for stormwater discharges associated with industrial activities.

DEQ is stated to have conducted a construction stormwater inspection of the Facility on April 24, 2023. The inspection is alleged to have identified the following:

- Respondent is constructing a Parking lot and office building at the Facility.
- Respondent is operating under automatic coverage of the Construction Permit-Small Site Construction Stormwater General Permit, ARR 150000.
- The Stormwater Pollution Prevention Plan (SWPPP) did not contain a site map, in violation of Part 11, Section A, Subsection 2, Item B of the Construction Permit.
- Stormwater inspection records were not present, in violation of Part II, Section A, Subsection 4, Item N.3 of the Construction Permit.

DEQ on April 26, 2023, conducted a reconnaissance inspection of the industrial activity at the Facility. The inspection is stated to have identified the following:

- Respondent is using the Facility for storing and loading concrete and related materials.
- Preexisting concrete mixing infrastructure was present, though M&S stated that all mixing activity occurred off-site.
- Activity at the Facility requires coverage under the Industrial Permit – Industrial Stormwater General Permit, ARR000000.
- M&S is operating without Industrial Permit coverage, in violation of Ark. Code Ann. § 8-4-217(b)(1)(C).

DEQ is stated to have provided the results of the inspections to M&S and requested written responses. Neither inspection response is stated to have been submitted.

The CAO requires that on or before its effective date M&S must submit a Notice of Intent and any associated permit fees to DEQ for coverage under the Industrial Permit. Further, M&S is required to comply with the Industrial Stormwater General Permit until DEQ issues a Notice of Coverage. In addition, written responses to DEQ's submissions are required on or before the effective date of the CAO.

M&S is also required to comply with the NPDES Stormwater Construction General Permit including all Stormwater Pollution Prevention Plan and recordkeeping requirements. Monthly progress reports are required.

A civil penalty of \$3,800 is assessed which could have been reduced to one-half if the CAO was signed and returned to DEQ within 20 calendar days of its receipt.

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