Stormwater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Conway Contractor Enter into Consent Administrative Order



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The Arkansas Department of Energy and Environment - Division of Environmental Quality ("DEQ") and Billy Stain Construction, LLC ("BSC") entered into a September 15th Consent Administrative Order ("CAO") addressing alleged violations of stormwater requirements. See LIS No. 25-069.

The CAO provides that BSC operates a construction site on certain lots within a site (i.e., Ben Tree Estates Phase II) which is a residential subdivision development.

BSC as of January 21st is stated to own 31 lots to be sold or built upon, and having interest in 11 other lots where construction of homes has been completed.

DEQ is stated to have determined that BSC discharged stormwater into a tributary of Kellogg Creek which flows into Bayou Meto and eventually flows into the Arkansas River. This activity is stated to be subject to National Pollutant Discharge Elimination System ("NPDES") Permit requirements. Further, BSC's activities are stated to fall within the definition of "Construction Activities" of the NPDES Stormwater Construction General Permit ("Permit"). Therefore, BSC is stated to be required to have permit coverage for stormwater discharges associated with construction activity.

DEQ is stated to have received complaints on April 19, 2023, that BSC was operating without environmental protections. The Complaint indicated that runoff flows into Cato Creek, which is affecting the creek water as well as neighboring properties.

DEQ conducted an inspection which is stated to have indicated the following:

- Operating a construction site without a Construction Stormwater General Permit.
- Stormwater Best Management Practices (BMPs) had been installed along the perimeter of the construction lots to prevent sediment from discharging onto the roads, into storm drain inlets, and into nearby waters of the state, but due to the silt fencing's natural usage, it had become in need of replacement, which BSC did replace and repair.

BSC submitted a Notice of Intent and a Stormwater Pollution Prevention Plan ("SWPPP") to DEQ on July 25, 2023.

A City of North Little Rock inspection of Bent Tree Estates on August 22, 2023, is stated to have indicated the following:

- Failure to establish sufficient erosion control on sites with elevations above city streets which is allowing sediment-contaminated stormwater to flow into the streets and either collect in low points or enter the stormwater system downstream.
- Installed construction entrances out of native excavated soils rather than constructing proper tracking entrances.
- Amounts of litter and debris have been thrown on the ground on the property, and could flow into low points downstream or enter the stormwater systems downstream.

DEQ is stated to have returned the Notice of Intent on January 8, 2024, to BSC and tried multiple times to get the information required to issue the General Permit.

DEQ is stated to have received an email on December 13, 2024, from BSC indicating that a silt fence was installed ·and the permit was paid for. However, the response is stated to have not contained any photographic documentation. Photographic documentation was stated to have been submitted to the City of North Little Rock and found to be acceptable by its Engineering Department.

BSC submitted a Notice of Intent and Stormwater Pollution Prevention Plan for the Stormwater Construction General Permit to DEQ on January 9, 2025.

The CAO requires that BSC comply with the Construction Stormwater General Permit. Further, on or before the fifteenth day of the month following the effective date of the CAO and each month thereafter for a period lasting one year from the effective date, BSC is required to submit a Corrective Action Report ("CAR") detailing what actions have been performed to maintain the site. Site inspections, any updates to the SWPPP, any updates to the site map and photographic documentation should be included with the CAR.

A civil penalty of $8,800.00 is assessed, of which $5,550.00 is conditionally suspended if BSC fully complies with the CAO.

A copy of the CAO can be downloaded here.