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Arkansas Permit Streamlining/Expediting Update: Ben Holden (Trinity) and Walter Wright (Mitchell Williams) Arkansas Environmental Federation Air Presentation

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Ben Holden and I undertook a presentation at the Arkansas Environmental Federation (“AEF”) Air Seminar titled:

Permitting Streamlining Update and Real World Bottlenecks (“Presentation”).

Ben Holden, P.E. is a Managing Consultant with Trinity Consultants.

Ben addressed “real world bottlenecks” and the available tools to address them.

Topics addressed in his section of the Presentation included:

- PERMIT FLEXIBILITY AND STREAMLINING CONDITIONS QUICK GUIDE (noting a document the Arkansas Department of Energy and Environment – Division of Environmental Quality (“ADEQ”) recently issued which provides a number of tools/conditions available to expedite/streamline air permit issuance/renewals).
- Alternative Operating Scenarios (noting their usefulness in planning for potential changes in operations and addressing those in the air permit application).
- Administrative Amendments (noting examples when this process might be utilized such as changes with no emissions increase).
- Case examples/scenarios.
- Vehicle assembly plant.
- Permit modification.
- Permit flexibility (noting opportunities such as:
 - Deadline extension.
 - Temporary emissions.
 - Alternative monitoring.
 - Federal alternatives (40 CFR Part 60, 61, and 63, Subpart A General Provisions).
 - Scenario 3: Permit Flexibility?
 - De Minimis and Minor Permit Modification.

- Scenario 4: Pharmaceutical Plant New Crystallizer.
- Significant Permit Modification.
- Scenario 5: Vehicle Plant Adds a New Stamping and Paint Line.
- Extraordinary Tools.
- Temporary variance.
- Interim authority.
- Emergency/upset affirmative defense.

I undertook a discussion of the efforts of AEF to replicate programs similar to states such as:

- Texas
- Oklahoma
- Mississippi
- Louisiana
- Georgia

Such states provide opportunities for permits to be expedited.

The referenced states facilitate this using one of two methods:

- Retention of contractors.
- Utilizing willing agency employees who seek overtime or some other benefit.

AEF had constructive meetings with ADEQ discussing the possibility of enabling legislation to create such a program:

- AEF has draft legislation that authorizes ADEQ to establish a program using either:
 - Contractors.
 - Voluntary employees.
- Note that the current draft legislation would be applicable to all ADEQ permit programs along with Elective Site Cleanup Agreements, etc.
- Rules would be needed to flesh out the program.
- AEF Committee has put significant effort in to searching for permit terms or requirements that may no longer be necessary, duplicative, or outdated.
- Efforts have included:
 - Extensive Committee discussions.
 - Discussions with ADEQ.
 - Surveying AEF members.
- Finally, there was discussion of an Executive Order issued by Arkansas Governor Sanders that requires:
 - Each cabinet-level state agency, along with any state board or commission thereof that issues permits, licenses, certifications, or other such regulatory approvals, including but not limited to the Arkansas Department of Agriculture, the Arkansas Department of Energy and Environment, Arkansas Department of Labor and Licensing, and the Arkansas Department of Health, shall conduct a comprehensive review of all such processes within 120 days of this Order.

ADEQ is, like other relevant Arkansas agencies, undertaking significant effort to address the Governor's request. It is hoped that the work being undertaken by AEF can be included in some manner in this effort.

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