

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

IN THE MATTER OF:

BELLA VISTA VILLAGE PROPERTY OWNERS ASSOCIATION

DOCKET NO. 19-004-MISC

MOTION TO DISMISS AND CLOSE DOCKET

Comes now the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ), by and through the undersigned counsel Michael McAlister, and for its Motion to Dismiss and Close Docket states as follows:

1. The Bella Vista Village Property Owners Association initiated this docket with a Request for Hearing and to Set Aside Administrative Order LIS 19-080, that order having been entered by consent between DEQ and Thomas Fredericks.
2. In light of the Request for Hearing and to Set Aside, and the Arkansas Pollution Control and Ecology Commission's subsequent Minute Order 20-07, the administrative order subject to this challenge in this matter, LIS 19-080, was rescinded by DEQ on January 30, 2020, as is reflected in the attached letter previously filed in this docket.
3. Given the rescission of LIS 19-080, the Request for Hearing and to Set Aside is now moot, and this matter should be dismissed and the docket closed.

WHEREFORE, DEQ respectfully requests that the matter be dismissed and the docket closed.

Respectfully submitted,

Division of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317
(501) 682-0918

By: /s/ Michael McAlister
Michael McAlister (AR Bar No. 89162)
Attorney for DEQ

CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2020, I did serve a copy of the foregoing Motion to Dismiss and Close Docket on the following individuals by email:

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/s/ Michael McAlister
Michael McAlister

ARKANSAS

ENERGY & ENVIRONMENT

ENVIRONMENTAL QUALITY

January 30, 2020

John Peiserich
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RE: DEQ rescission of LIS 19-080

Mr. Peiserich:

As you know, DEQ entered into Administrative Order LIS 19-080 by consent with Thomas Fredericks and Fredericks Construction Company, Inc. ("Fredericks"), on September 11, 2019, in settlement of potential liability of Fredericks to DEQ for costs expended by DEQ related to a fire on a site off of Trafalgar Road in Bella Vista, Arkansas.

The Bella Vista Property Owners Association, Inc. ("POA") filed a petition with the Arkansas Pollution Control and Ecology Commission asking the APC&EC to set aside Administrative Order LIS 19-080 and conduct an adjudicatory hearing. On January 24, 2020, after hearing oral arguments on the POA's petition, the APC&EC entered Minute Order 20-07 in APC&EC Docket No. 19-004-MISC granting the POA's petition.

The settlement in LIS 19-080 acknowledged that DEQ retained the right and discretion to rescind that administrative order, and that the order was also subject to being reopened if a petition to set aside was granted by the APC&EC. In light of the APC&EC's Minute Order 20-07, the Director of DEQ hereby rescinds administrative order LIS 19-080. Your client's payment of \$76,500.00 will be promptly returned to you. Please contact Michael McAlister if you have any questions.

Sincerely,



Becky W. Keogh, Director
Division of Environmental Quality