



March 6, 2008

Mr. Buddy Davenport
1305 State Road 44
New Smyrna Beach, FL 32168-1530

RE: White Elephant Flea Market Site

NPDES Permit No.: AR150000

Dear Mr. Davenport:

On February 27, 2008, I performed a complaint investigation on White Elephant Flea Market in response to a complaint which alleged that sediment had left the property and entered into Highway #110 road ditch. This complaint investigation along with a compliance assessment inspection of the construction site was in accordance with the provisions of Federal Clean Water Act, the Arkansas Water and Air Pollution Control Act, and the regulations promulgated thereunder. Since the construction site was less than five (5) acres, the site is automatically covered under the storm water permit and you do not have to submit a Notice of Intent or pay a permit fee; however, you must meet the conditions of the permit. The investigation/inspection revealed the following violations:

Sediment from several areas at the site had washed into Highway #25 By-Pass road ditch. This is a violation of the Arkansas Water and Air Pollution Control Act, (8-4-217), a, 2.

The following violations of the Construction Storm Water Permit were noted:

1. The completed Small Construction Site Notice was not posted indicating that storm water discharges from the site are covered under an NPDES permit. This is required under the NPDES permit that this information is posted in a prominent place for public viewing. This is a violation of Part I, Section B, item 7, a, iv, B, 2, of the permit.
2. A Storm Water Pollution Prevention Plan (SWPPP) was not being retained and available on site as required by the NPDES permit. This is a violation of Part II, Section A, item 2, a, and Section B, item 1, b, of the permit.
3. Inspections of the construction site and control structures were not being performed every 14 days and within 24 hours after a storm event that is 0.5 inches or greater of rainfall. This is a violation of Part II, Section A, item 4, e, of the permit. The records of the inspections must be retained on site as required in Part II, Section B, item 1, a, of the permit.
4. No documentation of measuring rainfall data on site to show a storm event greater than 0.5 inches. This is a violation of Part II, Section A, item 4, e, of the permit.

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5. No structure control or stabilization practices at the site to control and/ or prevent sediment from leaving off site. This is a violation of Part I, Section C, item 3, a, and Part II, Section B, item 17, of the permit.

The above items require your immediate attention. Please submit a written response to these findings to the Water Division Enforcement Section of this Department at the following address:

Water Division Enforcement Section
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

This response should contain detailed documentation describing the course of action taken to correct the items noted. This corrective action should be completed as soon as possible, and the written response is due by March 31, 2008.

For additional information you may contact the enforcement section by telephone at 501-682-0639 or by fax at 501-682-0910.

If I can be of any assistance, please contact me at 870-793-5819.

Sincerely,



Mike Kennedy
District 11 Field Inspector
Water Division

cc: Water Division Enforcement Branch
Water Division Permits Branch

■ CONSTRUCTION SITE STORM WATER ASSESSMENT ■

Site name: White Elephant Flea Market Site **Permit No.** ARR150000

~GPS COORDINATES: Latitude N35°29'34.755" Longitude W92°58'28.788"

Date: February 27, 2008

Area of site:

Total acreage ≤ 5 Acreage disturbed ≥ 4 Construction start date: Unknown

Site information:

Nature of project

Residential ☐

Industrial ☐

Commercial ☒

Other ☐

Construction Stage

Clearing/grubbing ☒

Rough grading ☒

Infrastructure ☐

Building const. ☐

Final stabilization ☐

Other ☐

Permit type

☒ General

☐ Individual ☐ N/A

Permit notice/sign visibly posted

☐ Yes

☒ No

☐ N/A

SWPPP prepared and available on site ☐ Yes

☒ No

List Stabilization Practices (eg seeding, mulching, geotextiles, etc.)

Are Stabilization Practices Satisfactory

☐ Yes ☒ No ☐ N/A

List erosion controls being used: (None)

Are erosion controls satisfactory?

☐ Yes ☒ No

Is the owner or operator properly operating and maintaining all facilities and systems of treatment and controls?

☐ Yes ☒ No ☐ N/A

Evidence of off site tracking noted at site.

☐ Yes ☒ No

Evidence of sediment from construction site entering Waters of the State: ☒ Yes ☐ No

Evidence of sediment leaving the site:

☒ Yes ☐ No

Are inspections conducted and records kept in accordance with the requirements of the permit?

☐ Yes ☒ No ☐ N/A

Is there a rain gauge on site?

☐ Yes ☒ No

Are daily rainfall totals recorded? ☐ Yes ☒ No If other than by rain gauge how?

ADEQ Water NPDES Inspection	AFIN: N/A	Permit #: ARR150000
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Additional Comments:

On the date of the inspection there was visible evidence that sediment had left the property and entered waters of the state.

Sediment had washed into Highway #110 ditch that borders the highway on the east side from several places of the construction of the flea market parking lot. The facility is building a parking lot to supplement the flea market, which was an old potpourri plant that had been closed down. The existing site was composed of approximately 5 metal buildings and a paved area around the buildings.

This construction site of the parking lot covers approximately 5 acres as stated by Mr. Mike Whiteford, Property Manager. The plant site covers 16.92 acres, but only 5 acres or less is under construction. No other construction is planned for the site.

Water Division NPDES Photographic Evidence Sheet									
Location:		White Elephant Flea Market Site approximately 3. miles east of Heber Springs, Arkansas (Cleburne County)							
Photographer:		Mike Kennedy				Witness:		None	
Photo #	1	Of	10		Date:	2-27-08	Time:	1252	
Description:		This view shows the front entrance to the proposed flea market. This site is on the east side of Highway #110.							
									
Photographer:		Mike Kennedy				Witness:		None	
Photo #	2	Of	10		Date:	2-27-08	Time:	1234	
Description:		Sediment washed past silt fencing into a water course flowing on the east side of Highway #110.							
									

Water Division NPDES Photographic Evidence Sheet							
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Location:	White Elephant Flea Market Site approximately 3. miles east of Heber Springs, Arkansas (Cleburne County)						
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Photographer:	Mike Kennedy			Witness:	None		
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Photo #	3	Of	10	Date:	2-27-08	Time:	1220
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Description:	Looking at the site on the west side from south to north.						
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Photographer:	Mike Kennedy			Witness:	None		
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Photo #	4	Of	10	Date:	2-27-08	Time:	1221
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Description:	Another view on the southwest side showing a wet weather water course flowing south.						
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Water Division NPDES Photographic Evidence Sheet							
Location:	White Elephant Flea Market Site approximately 3. miles east of Heber Springs, Arkansas (Cleburne County)						
Photographer:	Mike Kennedy			Witness:	None		
Photo #	5	Of	10	Date:	2-27-08	Time:	1223
Description:	This view shows a ditch on the construction site running northeast to a water course flowing on the east side of the site.						
							
Photographer:	Mike Kennedy			Witness:	None		
Photo #	6	Of	10	Date:	2-27-08	Time:	1226
Description:	Looking from east to west at the construction site.						
							

Water Division NPDES Photographic Evidence Sheet							
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Location:	White Elephant Flea Market Site approximately 3. miles east of Heber Springs, Arkansas (Cleburne County)						
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Photographer:	Mike Kennedy			Witness:	None		
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Photo #	7	Of	10	Date:	2-27-08	Time:	1228
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Description:	This view is looking from the northwest end of the site back to the southeast.						
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Photographer:	Mike Kennedy			Witness:	None		
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Photo #	8	Of	10	Date:	2-27-08	Time:	1228
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Description:	This view is looking from west to east across the construction site.						
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Location:	White Elephant Flea Market Site approximately 3. miles east of Heber Springs, Arkansas (Cleburne County)						
Photographer:	Mike Kennedy			Witness:	None		
Photo #	9	Of	10	Date:	2-27-08	Time:	1228
Description:	This is a ditch running east to west on the side of the site toward a water course flowing on the east side of the site.						



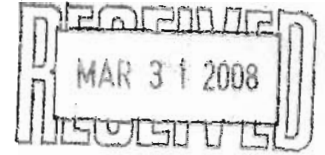
Photographer:	Mike Kennedy			Witness:	None		
Photo #	10	Of	10	Date:	2-27-08	Time:	1231
Description:	This is the water course on the east side of Highway #110, sediment enter the water course from the east side of the site.						



Insp #038434

Buddy Davenport

1305 State Road 44
New Smyrna Beach, FL 32168
(800) 230-0516 (800) 940-3473



March 25, 2008

Mr. Mike Kennedy
Water Division Enforcement Section
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: White Elephant Flea Market

Dear Mr. Kennedy,

This is in response to NPDES Permit No.: AR150000 in regard to your findings in the inspection of the violations on the date of February 20, 2008 and the complaint you received. I will address each specific section individually.

1. We will post the Small Construction Site Permit with lamination on the entrance where everyone can see it, keeping a copy for our records.
2. On the concern of the Storm Water Pollution Prevention Plan we will put silt fence along the eastern property line with bales of hay (at each end and in the middle) to keep it in place and this will be inspected every two weeks to make sure it is in compliance as required by the permit. This Storm Water Pollution Prevention Plan (SWPPP) will be available on site as required by the permit regarding the proposed plan to prevent any sediment run off.
3. The inspection of the construction site will be performed every 14 days keeping a water gauge as required by the permit and within 24 hours in the event of the 0.5 inches or greater rainfall.
4. We will put a rain measuring gauge on the site where the permit is publicly displayed.
5. As previously discussed under #2, we will put up silt fence and hay bales for structural control and stabilization to prevent sediment from leaving offsite, this again will be in the Storm Water Prevention Plan to prevent sediment from coming offsite and this will be on premises for your inspection.

I would like to address the additional comments that you referred to. I do agree with these comments on the day of the inspection, as there was no visible evidence that sediment had left the property and entered the waters of the State. I have been on top of this from the very first day we started this and I was there when we had over 2 inches of rain. My engineer and I never noticed any sediment runoff from this site, other than normal runoff.

My concern to you, Mr. Kennedy, is not my property, but the property to the east of me where the new NaturScent building is being built. All the construction work has caused run off there, as well as between the other property to the north where dirt work was done for apartments. You can see the sediment going into that ditch and it *may* appear to look like my property, but actually it's where the trackhoe had dug a new ditch between the funeral home and proposed apartments by Mr. Mark Streeter. All that sediment is running off into the ditch that runs through my property and it looks like it's coming from my property. Nothing is coming from my property as we put up the silt fence to begin with and protected this area.

However, we will finish this work in the next two weeks now that the rain has stopped. We will seed all of the property and that will be in the permanent plan to get good grass stabilization in there to hold any potential sediment from running off.

Again, this property is under 5 acres, as you noted. We will take the necessary measures to prevent any pollution to any waters of the State.

Thank you for bringing this issue to my attention. If you have any further questions please feel free to call me (386) 405-0681.

Respectfully yours,

A handwritten signature in cursive script that reads "Buddy".

Buddy Davenport

BD/sab