

Stormwater Enforcement: Arkansas Department of Environmental Quality and Saline County, Arkansas Construction Site Operator Enter into Consent Administrative Order



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

07/17/2019

The Arkansas Department of Environmental Quality (“ADEQ”) and Heritage Homes and Development of Central Arkansas, Inc. (“Heritage”) entered into a June 21st Consent Administrative Order (“CAO”) addressing an alleged violation of the Arkansas stormwater regulations/requirements. See LIS No. 19-060.

The CAO provides that Heritage operates a construction site (“Subdivision”) in Saline County, Arkansas.

The Subdivision is stated to be approximately 30.50 acres. It is stated to discharge stormwater associated with construction activity to an unnamed tributary that eventually flows to the Ouachita River. Such activity is stated to be regulated pursuant to the National Pollutant Discharge Elimination System (“NPDES”).

ADEQ is stated to have conducted a Reconnaissance Inspection of the Subdivision on November 15, 2018, in response to a complaint. The inspection allegedly revealed certain violations described as:

- The facility had neither applied for nor been issued coverage under the CSGP. Failure to obtain coverage under the CSGP is a violation of Ark. Code Ann. § 8- 4-217(b)(1)(C) and 40 C.F.R. § 122.26 as incorporated by APC&EC Regulation 6.104 and therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

ADEQ provided Heritage a letter on December 13, 2018, detailing certain findings allegedly made during the inspection and requested a written response describing the course of action taken to correct each finding. Heritage is stated to have responded via email on January 10, 2019, and submitted three photographs in response to the inspection. The response allegedly did not address all the violations noted in the inspection reported dated November 15, 2018.

Heritage is stated to have submitted to ADEQ a Notice of Intent (“NOI”) to be covered under the Arkansas NPDES Construction Stormwater General Permit (“CSGP”), a Stormwater Pollution Prevention Plan (SWPPP), and the applicable fees. ADEQ is stated to have indicated the NOI and SWPPP were incomplete. Heritage subsequently submitted to ADEQ a complete NOI and SWPPP.

Heritage was granted coverage under the NPDES CSGP on April 26, 2019.

The CAO requires that on or before the 15th day of the month following the effective date of the CAO, and each month thereafter for a period lasting one year, and quarterly thereafter for an additional year, that Heritage submit to ADEQ compliance reports with photographic evidence detailing:

- Best Management Practices implemented
- Best Management Practices maintenance activities
- Inspections conducted to maintain compliance with the NPDES CSGP

A final compliance report is required to be submitted within 30 days of completion of the project or termination of coverage under the NPDES CSGP.

A civil penalty of \$1,800 is assessed, which could be reduced to \$900 if the CAO was returned to ADEQ within 20 calendar days of receipt of the CAO.

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