



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

Stormwater/Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Stuttgart Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment - Division of Environmental Quality ("DEQ") and City of Stuttgart, Arkansas, entered into a May 5th Consent Administrative Order ("CAO") addressing alleged Clean Water Act violations. See LIS No. 21-035.

The CAO provides that Stuttgart, Arkansas, operates a wastewater treatment facility ("Facility") in Arkansas County, Arkansas.

The Facility is stated to discharge treated wastewater to an unnamed ditch, thence to King Bayou and eventually into the Arkansas River. Such discharge is regulated pursuant to a Clean Water Act National Pollution Discharge Elimination System ("NPDES") Permit.

DEQ is stated to have issued an NPDES Permit to Stuttgart on January 29, 2015, with an effective date of February 1, 2015, and an expiration date of January 31, 2020.

NPDES Industrial Stormwater General Permit, ARR000000, was issued with an effective date of July 1, 2014, and an expiration date of June 30, 2019. A renewal of such NPDES Stormwater General Permit was issued with an expiration date of June 30, 2024. Coverage from such stormwater permit was provided to Stuttgart.

Part III, Section D, Condition 10 of the NPDES Permit requires Stuttgart to submit a complete permit renewal application at least 180 days prior to the expiration date of the permit if the activity regulated by the permit is to continue after the expiration date. Such Facility is stated to have operated beyond the expiration date of the current permit (January 31, 2020).

A renewal application was submitted to DEQ by Stuttgart on July 12, 2019. DEQ is stated to have notified Stuttgart that the permit renewal application was incomplete. Additional information was subsequently submitted by Stuttgart and DEQ deemed it administratively complete on August 20, 2019.

Because the NPDES permit renewal application was not received by August 4, 2019, the CAO provides that this constituted a violation of the NPDES Permit.

The CAO provides that Part II, Condition 2.2 of the Stormwater General Permit required Stuttgart to submit a complete Recertification Notice of Intent (“RNOI”) no later than June 20, 2019, in order to maintain permit coverage for the regulated activity.

Stuttgart submitted an RNOI on January 14, 2019, and certified the Facility qualified for the No-Exposure Exclusion.

DEQ is stated to have notified Stuttgart by an April 12, 2019, letter that an inspection of the Facility cited:

. . . extensive scrap metal, machinery, equipment, spilled materials, and solid waste at the facility that is exposed to stormwater, and therefore, the facility is not eligible for the No Exposure Exclusion.

Further, the DEQ letter stated that in order to continue the regulated activity, an RNOI for stormwater coverage and Stormwater Pollution Prevention Plan (“SWPPP”) must be submitted to DEQ no later than June 30, 2019. The alleged failure to submit a complete RNOI and SWPPP by July 1, 2019, is stated to constitute a violation of Part 2, Condition 2.2 of the stormwater permit.

DEQ is stated to have conducted a Compliance Evaluation Inspection, SSO/Collection System Inspection, and Industrial Stormwater Inspection on December 12, 2019. The following violations were allegedly identified:

- Failure to submit a non-compliance report for effluent limitation exceedances with Discharge Monitoring Reports
- Failure to sample and analyze the influent in 2018 for CBOD5 and TSS to demonstrate the percent removal for CBOD5 and TSS
- Failure to properly operate and maintain the Facility
- Failure to employ adequate operating staff

DEQ is stated to have notified Stuttgart of the inspection results and requested a written response for each alleged violation. A response was eventually submitted by Stuttgart which DEQ states did not adequately address each alleged violation.

DEQ conducted a review of certified Discharge Monitoring Reports (“DMRs”) submitted by Stuttgart in accordance with the NPDES Permit. The following violations of the permitted effluent discharge limits were allegedly identified:

- Four violations of Total Suspended Solids
- Three violations of pH
- One violation of Carbonaceous Biochemical Oxygen Demand
- One violation of Total Residual Chlorine
- Eight violations of Fecal Coliform Bacteria

DEQ is stated to have conducted another review of certified DMRs on December 2, 2020, and allegedly identified the following violations of the permitted effluent discharge limits:

- Three violations of Total Suspended Solids
- Three violations of Ammonia Nitrogen
- One violation of Carbonaceous Biochemical Oxygen Demand
- Two violations of Total Residual Chlorine
- Five violations of Fecal Coliform Bacteria

A review of Sanitary Sewer Overflow (“SSO”) reports is stated to have been conducted by DEQ on January 10, 2020. Such review is stated to have identified three SSOs during the period of January 1, 2017, through December 31, 2019, totaling 600,000 gallons.

The CAO also references a prior CAO (LIS 18-092). Stuttgart is stated to have failed to comply with the prior CAO regarding certain monthly progress reports and other action that was required to be taken.

Such alleged failure is stated to have resulted in a prior suspended civil penalty of \$5,000 to be due and payable to DEQ.

The CAO requires that on or before the effective date of the CO that Stuttgart submit a response adequately addressing the alleged violations cited in the December 12, 2019, inspection. Further, through the same time period, Stuttgart is required to submit to DEQ a complete Notice of Intent and SWPPP to obtain coverage under the NPDES Industrial Stormwater General Permit. Stuttgart is required to comply with the NPDES Industrial Stormwater General Permit until DEQ issues a Notice of Coverage. Also, Stuttgart is required to comply with the provisions of the previous NPDES Permit which expired on January 31, 2020, until a new NPDES Permit is issued to Stuttgart.

The CAO also provides that within 60 calendar days of its effective date that Stuttgart submit to DEQ, for review and approval, a comprehensive Corrective Action Plan which includes a milestone schedule, prepared and stamped by an Arkansas Professional Engineer that will, at a minimum, include the methods and best available technologies that will be used to correct the alleged violations. In addition, within the same time period, Stuttgart is required to submit a staffing evaluation and operations plan prepared by an Arkansas Professional Engineer.

Quarterly progress reports regarding the referenced items are required and by June 30, 2022, Stuttgart is required to submit a final compliance report prepared and stamped by an Arkansas Professional Engineer certifying compliance with the NPDES Permit and that all actions identified in the approved Corrective Action Plan and milestone schedule have been completed.

A civil penalty of \$8,800 is assessed of which \$5,000 is conditionally suspended if Stuttgart fully complies with the document.

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