



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

Wastewater Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality and City of Mountainburg Enter into Consent Administrative Order

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The Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) and City of Mountainburg, Arkansas, (“Mountainburg”) entered into a March 8th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit. See LIS No. 22-026.

The CAO provides that Mountainburg operates a municipal wastewater treatment facility (“Facility”) in Crawford County, Arkansas.

The Facility is stated to discharge treated wastewater to an unnamed tributary of Pigeon Creek which eventually flows to the Arkansas River. Such discharge is regulated pursuant to an NPDES permit.

DEQ is stated to have sent Mountainburg a request for a Corrective Action Plan (“CAP”) on October 25, 2019, to address repeated effluent violations. A milestone schedule and final date of compliance were requested.

Mountainburg submitted a CAP which DEQ subsequently approved on December 13, 2019, with the following stipulations:

- Specify what process control measures have been taken as a result of the Environmental Protection Agency (EPA) webinar;
- Provide a description of the type of testing equipment purchased and its purpose; and
- Submit the proposed plan for the addition of two (2) valves in the wastewater pond.

The additional information requested by DEQ was provided on January 16, 2020.

DEQ sent a letter to Mountainburg on February 11, 2020, deeming the additional information adequate with the following comments:

- Please be advised that pursuant to [Rule] 6.202(A), “Any person who desires to construct, operate or modify any disposal system which will discharge to the waters of the State ... shall submit an application for a permit for such activity.”
- Please submit quarterly reports detailing the progress Respondent has made in achieving final compliance with permit limits. The first quarterly report is due by April 10, 2020.

- The Circuit Rider site-visit is scheduled for February 24, 2020.

DEQ conducted a compliance evaluation inspection of the Facility on February 24, 2020, which included a review of available records and an evaluation of the existing treatment Facility. The inspection report is stated to have noted that Mountainburg was participating in an EPA Circuit Rider Assistance program and that PG Environmental was assisting the city with the development of a compliance plan.

Mountainburg submitted a progress report on March 20, 2020, which indicated it was waiting to receive a compliance plan from the EPA Circuit Rider site-visit on February 24, 2020. EPA submitted an initial draft of a compliance plan on April 22nd and progress reports were submitted by Mountainburg on subsequent dates.

PG Environmental submitted a final recommendations report on August 5, 2020, which addressed multiple areas of concern related to excess inflow and infiltration and repairs that needed to be made to the Facility.

DEQ is stated to have conducted a review of certified Discharge Monitoring Reports (“DMRs”) on September 22, 2021. Alleged violations identified included:

1. Fifty-one (51) violations of Ammonia Nitrogen;
2. Eight (8) violations of Total Suspended Solids;
3. Two (2) violation of Dissolved Oxygen; and
4. One (1) violation of Carbonaceous Biochemical Oxygen Demand.

Further, the review of the DMRs is stated to have indicated that Mountainburg failed to submit non-compliance reports for the following monitoring periods:

- January 2021;
- March 2021 ;
- July 2021; and
- August 2021

A review of sanitary sewer overflows (“SSOs”) was conducted by DEQ for the period of January 21, 2020, through June 30, 2021. Such review is stated to have indicated that Mountainburg reported two SSOs.

The CAO requires that within 30 days of the effective date of the document Mountainburg submit to DEQ for review and approval a comprehensive CAP developed by an Arkansas Professional Engineer which is required to include, at a minimum, the following:

- Methods and best available technologies that will be used to correct the violations listed in the Findings of Fact Paragraph 21
- Methods and best available technologies to prevent future violations
- A reasonable milestone schedule and final date of compliance

Upon review and approval by DEQ, Mountainburg is required to comply with the terms, milestone schedule, and final compliance date which shall be fully enforceable as a component of the CAO.

On or before the effective date of the CAO, Mountainburg is required to submit the previously referenced needed noncompliance reports for the specified monitoring periods.

Quarterly reports are required detailing progress made toward compliance.

Within 90 calendar days of the effective date of the CAO, Mountainburg is required to submit to DEQ for review and approval a comprehensive Sanitary Sewer Flow Monitoring and Infiltration and Inflow Study (“Study”) developed by an Arkansas Professional Engineer. The Study is required to include, at a minimum:

- Baseline for sanitary sewer flows
- Rainfall monitoring
- Estimate of available sewer capacity
- Identification of sources of I/I
- An estimation of I/I
- Plan and milestone schedule for reducing I/I with a final date of compliance

The Study is required to detail the methods and best available technologies that will be used to correct the I/I violations listed in Findings of Fact Paragraph 24 and prevent future violations. Upon review and approval, Mountainburg is required to comply with the terms, milestone schedule, and final compliance date which will be a component of the CAO.

The CAO assesses a civil penalty of \$2,800 which is conditionally suspended if Mountainburg fully complies with the CAO.

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