



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

Water Enforcement: Alabama Department of Environmental Management and Birmingham Ice Cream Products Manufacturing Facility Enter into Consent Order

06/20/2024

The Alabama Department of Environmental Management (“ADEM”) and DFA Dairy Brands Ice Cream, LLC d/b/a Mayfield Ice Cream of Birmingham (“Mayfield”) entered into a May 21st Consent Order (“CO”) addressing alleged violations of the Alabama Code involving water quality. See Consent Order No. XX-XXX-C-W-P.

The CO states that Mayfield operates a milk and juice processing and ice cream products manufacturing facility (“Facility”) in Birmingham, Alabama.

The CO describes certain permits that had been issued to the Mayfield Facility including:

- National Pollutant Discharge Elimination System (“NPDES”) General Permit for discharges associated with the food products industry.
- State Indirect Discharge (“SID”) Permit.

ADEM is stated to have received information from the Alabama Emergency Management Agency on December 9th concerning a spill of Anhydrous Ammonia of approximately 40 pounds from a storage vessel that had flowed into the storm drain and into an unnamed tributary of Shades Creek. Shades Creek is a water of the state. The discharge is stated to have resulted in a fish kill.

Mayfield is stated to have acknowledged that a spill did occur when a contractor was attempting to blow down an ammonia vessel to perform maintenance.

ADEM personnel are stated to have arrived at the Facility on December 9, 2023, and observed several hundred 1-2-inch dead fish in the creek. Various pH samples are stated to have been found exceeding the instream water quality criteria.

The CAO provides that the release was an unpermitted discharge in violation of the Alabama Code. It is stated to have resulted in a fish kill and caused violations of the instream pH water quality criteria.

Mayfield is stated to have indicated it has updated its procedures to prevent future occurrences.

Mayfield contends that it minimized or mitigated the effects of the violations on the environment by:

- Contacting a third-party contractor who responded to a request for assistance.

- Immediately upon arrival the contractor deployed booms around the storm drain to prevent any material from entering the storm drain.
- Absorbent was spread across the parking lot to the north side of the Facility and all materials cleaned up and disposed of properly.

Mayfield is also required to prepare and submit to ADEM not later than 60 days after the issuance of the CO a report identifying the potential causes of noncompliance and summarizing an investigation to the change necessary to achieve and maintain compliance with the NPDES permit. This is required to include a compliance plan. Further, a Notice of Intent for the General NPDES permit shall be submitted no later than 30 days from the issuance of the CO.

A civil penalty of \$28,000 is assessed.

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