

Turbidity/Corrective Measures: Arkansas Department of Environmental Quality and Off Road Park Enter into Consent Administrative Order



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The Arkansas Department of Environmental Quality (“ADEQ”) and Carter Off Road Park, LLC and Mark Carter (collectively “Carter”) entered into a May 11th Consent Administrative Order (“CAO”) outlining certain corrective actions/interim measures to reduce turbidity. See LIS NO. 17-038.

Carter is stated to own and operate Off Road Park located in Pulaski and Saline counties. The Off Road Park is described as having over 1,000 acres for off-roading. Construction is stated to have included:

- Mud pits
- Trails
- Hill climbs
- 4,000 foot obstacle course
- Tent camping sites
- RV sites
- Pavilion with rooms for rent
- Tree-house cabins
- Primitive cabins
- Restroom facility

Stormwater is stated to be discharged to an unnamed tributary of Fourche Creek which is listed on the 2008 Impaired Waterbodies 303(d) list and the Draft 2016 Impaired Waterbodies 303(d) list.

The CAO describes an annual event titled Mud Daze which was held in May, 2015 and 2016 at the Off Road Park. Activities taking place during these two events were stated to have included the use of off-road vehicles in both dry and muddy conditions. ADEQ Office of Water Quality field Inspectors are stated to have conducted inspections prior to and during these two events obtaining samples from waters of the state at various locations around the boundaries of the Off Road Park. Analysis of the water samples is stated to have indicated an increase of turbidity as a result of vehicle usage in and around Fourche Creek and its tributary during the events.

Prior to a 2017 Mud Daze event ADEQ is stated to have met with representatives of Off Road Park to discuss corrective actions and interim measures to reduce turbidity in both Fourche Creek and the unnamed tributary to Fourche Creek.

The CAO provides that the “agreed objective” of both ADEQ and Carter was that they immediately implement the interim corrective measures prior to the 2017 Mud Daze event and to subsequently implement permanent corrective measures for the long-term protection of Fourche Creek and the unnamed tributary.

There was also an acknowledgement by both ADEQ and Carter that:

. . . the development and implementation of permanent solutions to reduce turbidity and provide acceptable environmental protection of Fourche Creek and its tributary is an ongoing process, which includes sampling conducted by CORP after Mud Daze events or heavy rain events to determine the effectiveness of the implemented solutions.

Both parties further agreed that:

. . . due to the unique nature of the outdoor events held by CORP and the large number of patrons attending the annual Mud Daze events, the best management practices and corrective actions implemented by CORP to reduce turbidity may be revised on an annual basis to provide the best opportunity to achieve compliance with state laws and regulations.

Carter is stated to have provided ADEQ in April/May details of proposed corrective actions. These corrective actions were stated to have been amended at the request of ADEQ. A timeline for completion of the referenced actions prior to the May 12th Mud Daze event and a timeline for future corrective actions was developed.

The CAO provides an agreed mandate of actions that Carter was to have taken prior to May 12th. Also included is a requirement that Carter monitor the site and document the effectiveness of the corrective actions. A final event report is required to be submitted to ADEQ within 30 days of the effective date of the CAO detailing the specific actions taken to implement its terms and the effectiveness of the actions.

Provision is made for actions that must be undertaken “in the event any exceedances of turbidity standards or discharges of sediment in Fourche Creek or its tributary occur during the May 2017 Mud Daze event.” Such exceedances will require that Carter submit within 30 days to ADEQ for review and approval a Remedial Action Plan.

It is further provided that if:

. . . Respondents’ final event report is reviewed and approved by ADEQ, demonstrates that Respondents fully and timely implemented and maintained CORP’s Corrective Actions in compliance with Paragraphs 1 through 4 above, then ADEQ shall consider implementation of the approved Remedial Action Plan as an alternative to the assessment of an administrative civil penalty to resolve those exceedances of turbidity standards or discharges of sediment stemming from the May 2017 Mud Daze event.

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