



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

Asbestos Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Star City Operator Enter into Consent Administrative Order

07/21/2021

Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Moser Construction, LLC, (“Moser”) entered into a June 24th Consent Administrative Order (“CAO”) addressing alleged violations of Arkansas Pollution Control and Ecology Commission (“APC&EC”) Regulation 21 (Asbestos Regulations). See LIS No. 21-063.

The CAO provides that Moser demolished or caused to be demolished a structure formerly located in Star City, Arkansas (“Site”).

The structure referenced in the CAO is stated to constitute a facility (“Facility”) as defined in APC&EC Regulation 21, Chapter 4. Further, Moser is stated to meet the definition of an “owner or operator of a demolition or renovation activity” as defined in Regulation 21, Chapter 4.

A Notice of Intent (“NOI”) is stated to have been submitted for the Site on May 14, 2020. The NOI is stated to have indicated Moser as the operator.

DEQ personnel are stated to have conducted an inspection of the Site on June 4, 2020. Such inspection is stated to have determined that the Site had been demolished by Brian Caughman Construction. Further DEQ personnel are stated to have noted that the concession stand in Building 19 had already been demolished.

The CAO cites Reg. 21.610, noting:

... changes in operator will require the submittal of a new NOI with a new notification period and a new fee as described in Chapter 22 of Regulation 21.

It is alleged that Moser failed to submit a new NOI to represent the change in operator for the demolition at the Site. This is alleged to have violated Reg. 21.610.

Moser submitted a Notice of Intent Revision (“NOIR”) notifying DEQ that there was a change in operator on June 16, 2020. DEQ is stated to have subsequently changed the operator for the Site to Brian Caughman Construction.

Moser neither admits nor denies the factual and legal allegations contained in the CAO.

Within 90 calendar days of the effective date of the CAO, an employee or an owner of Moser is required to satisfactorily complete an approved asbestos Two-Hour Regulatory Awareness training course offered by an Arkansas licensed provider. The course is required to adequately address the topics outlined in Reg. 21.610. Further, within 10 calendar days of completing the course, Moser is required to submit a copy of the course completion to DEQ.

A civil penalty of \$700 is assessed.

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