Citizen Suit Enforcement/Clean Water Act: City of Bentonville, Arkansas, Response to Friends of Little Sugar Creek Notice of Intent to Sue

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

06/21/2023

A previous blog post referenced the Friends of Little Sugar Creek ("FOLSC") transmittal of a Notice of Intent to Sue ("Notice") to the City of Bentonville, Arkansas ("Bentonville"), alleging violations of the Clean Water Act.

The Notice stated that FOLSC intended to file a Clean Water Act citizen suit against Bentonville unless it remedies certain alleged violations related to a dam on Little Sugar Creek.

FOLSC described itself as an organization:

. . . working towards the removal of the failed Lake Bella Vista dam and the restoration of Little Sugar Creek as a free-flowing multi-use recreational area.

The Notice alleged that Bentonville was responsible for the breached dam on Little Sugar Creek. Further, it alleged that the dam has resulted in the:

. . . continued discharge of rock, dirt, concrete, asphalt, sediment, and other fill material into waters of the United States without a permit, in violation of CWA § 1344, which in turn constitutes an unlawful act under subsection (a) of § 1311 of the CWA.

FOLSC stated that if the alleged Clean Water Act violations are not corrected within 60 days of the date of notice that it may file a Clean Water Act citizen suit.

Bentonville responded to the Notice in a May 26th letter to the FOLSC's attorney.

Bentonville stated that it had entered into an agreement with Cooper Realty Investments, Inc., which allows the City to:

. . . remove the dam and transform the property into a functional and appealing recreation space.

Bentonville is stated to have agreed to a timeline for design, permitting, and construction of the new park space.

The Bentonville letter is stated to have enclosed:

- A copy of the Consent Decree
- A water quality report
- Water quality samples taken at Lake Bella Vista Park during the years 2020-2023

The letter is authored by City of Bentonville Staff Attorney Bonnie Bridges and offers the opportunity to meet with either her or other City of Bentonville staff.

A copy of the letter can be downloaded here.