



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

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

08/02/2023

The Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) and City of Joiner, Arkansas, (“Joiner”) entered into a May 25th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit. See LIS No. 23-038.

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

The Facility is stated to discharge treated wastewater to Ditch No. 4 which eventually flows to the St. Francis River. Such discharge is regulated pursuant to a NPDES permit.

Joiner is stated to have entered into a Consent Administrative Order LIS 16-028 in 2016. The CAO is stated to have been amended in 2017 in order to provide Joiner time to achieve compliance with the NPDES permit limits. Further, in 2020 the CAO was amended again to extend the timeline for achieving compliance.

DEQ is stated to have performed a Reconnaissance Inspection of the Facility on June 9, 2021. The inspection is stated to have revealed the following violations:

1. A high accumulation of duckweed observed in the lagoon.
2. An accumulation of vegetation observed around the lagoon levee, especially at the outfall structure.
3. The chlorine contact chamber was in need of repair and cleaning.

A compliance meeting with the Facility is stated to have been held on January 19, 2022, and certain compliance issues were discussed which included:

- Failure to have a Class III operator licensed in the state of Arkansas
- Failure to submit a response to violations cited during a 2021 inspection
- Need to amend a CAO to allow additional time to achieve compliance

- DEQ was informed that Joiner was in the process of taking over the City of Bassett, Arkansas, wastewater treatment facility and was currently operating that treatment system

Joiner is stated to have submitted a payment required for renewal of a wastewater license for their contract wastewater operator on February 11, 2022.

A Reconnaissance Inspection of the Facility is stated to have been undertaken on March 10, 2022, which identified the following alleged violations:

- Western levee was severely eroded and causing an unpermitted discharge of partially treated wastewater
- Levees were degraded in several areas
- Failure to report unpermitted discharge
- Lagoon had less than two feet of freeboard

Joiner is stated to have submitted a Claim of Deed and Ordinances for the City of Bassett on April 14, 2022.

On April 15, 2022, Joiner requested the amendment of the prior CAO which would include a revised milestone schedule and final compliance date of December 31, 2022. On the same date Joiner responded to a June 9, 2021, inspection providing photographs of the lagoons and a contract for a licensed wastewater operator. Also addressed were repairs to the weir and removal of the vegetation. However, the CAO states that Joiner did not address the repairs needed to the chlorine contact chamber.

Subsequently, on April 22, 2022, a letter was provided to DEQ addressing unpermitted discharges and discussion of long-term corrective actions to address the levees. In addition, on May 6, 2022, Joiner indicated the water level in the pond was drained so that it was no longer flowing through the hole in the levee. Funding for long-term repairs was also discussed.

Joiner reported the following violations of permitted effluent discharge limits for the time period July 1, 2019, through June 30, 2022, which included:

1. Twenty-three (23) violations of Total Suspended Solids;
2. Eighteen (18) violations of Dissolved Oxygen;
3. Nine (9) violations of Carbonaceous Biochemical Oxygen Demand;
4. Six (6) violations of Fecal Coliform Bacteria;
5. Five (5) violations of Ammonia Nitrogen; and
6. One (1) violation of pH.

Joiner submitted a document on September 26, 2022, detailing Best Management Practice for total Residual Chlorine Reduction at the Facility.

The City of Bassett is also addressed in the CAO referencing its failure to pay certain invoices and Joiner's submission of a Permit Transfer Form to obtain Bassett's NPDES permit. A Change of Authorization Request to DEQ was submitted on August 18, 2022.

DEQ is stated to have performed a review of the Discharge Monitoring Reports for the City of Bassett which indicated the failure to submit certain documents for the following monitoring periods:

- June 1-30, 2022
- July 1-31, 2022

The CAO provides that the prior referenced Joiner CAO is closed.

Joiner is required on or before the effective date of the CAO to submit to DEQ for review a report detailing the corrective actions contained in the revised milestone schedule dated September 26, 2022,

including an evaluation to determine whether a state construction permit is necessary for each of the proposed actions.

The revised milestone schedule is fully enforceable as terms of the CAO. Further, quarterly progress reports are required along with an interim operating plan that details measures undertaken to maximize the removal efficiency of all pollutants covered by the NPDES permit.

Joiner is required to submit a Certification of Compliance by an Arkansas Professional Engineer certifying that the levee is no longer degraded and has been repaired in accordance with the 20 State Standards and is functioning to full capability.

A civil penalty of \$12,500 is assessed which is suspended if Joiner fully complies with the CAO.

A civil penalty of \$1,500 is assessed.

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