



DIVISION OF ENVIRONMENTAL QUALITY

Sarah Huckabee Sanders
GOVERNOR

Shane E. Khoury
SECRETARY

May 30, 2024

Marcus Tilley, Environmental Engineer
Denali Water Solutions, LLC
220 S. Commerce Ave.
Russellville, AR 72801

Re: May 8, 2024 Notification of Anticipated Noncompliance

Dear Mr. Tilley:

The Department of Energy and Environment, Division of Environmental Quality, Office of Water Quality (DEQ) received a letter that purports to be a notice of anticipated noncompliance dated May 8, 2024, stating Denali Water Solutions, LLC's (Denali) intent to violate Part II Condition 25 of No-Discharge Permit 5257-WR-2 and Part II Condition 16 of the six no-discharge permits listed below.

Permit Number	County
4741-WR-9	Crawford County
5257-WR-2	Crawford County
5335-WR-2	Crawford County
5094-WR-2	Sebastian County, Nutrient Surplus Area
5297-WR-2	Franklin County
5333-WR-1	Sebastian County

The requirements set forth in permit conditions are necessary for the protection of the environment including, but not limited to, waters of the state. Permittees have a duty to comply, and DEQ requires permittees to comply, with the conditions in their respective DEQ-issued permits. This duty to comply is explicitly set forth in Part III Condition 1 of the above-referenced permits, and states:

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Arkansas Water and Air Pollution Control Act¹ (Ark. Code Ann. § 8-4-101 et seq.) and is grounds for civil and administrative enforcement action; for permit termination, revocation and reissuance, or modification; or for rejection of a permit renewal application.

DEQ does not recognize the legitimacy of “self-imposed requirements” and will not rely upon any assertions from the May 8 letter as mitigating factors for future enforcement actions relating to non-compliance on behalf of Denali.

¹ Ark. Code Ann. § 8-4-217(a)(3) states, “It shall be unlawful for any person to violate any provisions of this chapter or of any rule or order adopted by the Arkansas Pollution Control and Ecology Commission under this chapter or of a permit issued under this chapter by the [DEQ].”

Denali shall maintain documentation, and submit to DEQ immediately such documentation, demonstrating its compliance, or each and every instance of noncompliance, with the permits and conditions referenced in its May 8 letter, including but not limited to:

1. Status of the storage lagoon permitted under No-Discharge Permit 5257-WR-2 and the maintenance of the required minimum two (2) feet of freeboard.
2. Any instances of land application of wastes within twenty-four (24) hours of reasonably anticipated or actual precipitation.

In addition, Denali shall submit monthly noncompliance reports documenting each instance of non-compliance with any of its permits, including but not limited to each of those listed above. The monthly report shall be submitted by the 10th of the month following the reporting month and shall be submitted by email to Water-Enforcement-Report@adeq.state.ar.us. Each monthly report shall also include the field logs described in paragraph 1 below, photographs of each field following the land application activity, the lagoon log described in paragraph 2 below, and daily photographs of the storage lagoon. All photographs shall be date and time stamped.

Each monthly noncompliance report shall contain, at minimum, the following information:

1. Field logs for each land application site documenting the following:
 - i. Date of land application;
 - ii. Volume of waste applied each day;
 - iii. Method of land application;
 - iv. Daily weather prediction including, but not limited to, the precipitation anticipated (or actually occurring) in the 24-hour period following the land application activity; and
 - v. Time that land application activity commenced and ceased each day.
2. A log for the storage lagoon documenting the current freeboard and documenting the final disposition of waste removed from the lagoon. Prior to removing waste for land application, Denali shall sample and analyze the waste in the storage lagoon. The waste analysis and chain of custody shall be included in the monthly noncompliance report. The waste analysis and chain of custody shall also be included in the applicable permit annual reports.
3. Denali shall disclose any additional violations of its permits, which are not specifically required by the preceding paragraphs, in the monthly noncompliance reports.
4. Each monthly noncompliance report shall be certified in accordance with the certification requirement in the respective permits.

Additionally, on May 20, 2024, DEQ received a letter from Denali requesting “immediate assistance and interim authority on permits.” However, the information provided in the May 20 letter is not sufficient to support a request for interim authority. If you would like to make a request for interim authority, please contact the Office of Water Quality Permits Section to schedule the initial meeting for such request.

If you have any questions, please contact Richard Healey at richard.healey@arkansas.gov.

Sincerely,

Stacie R. Wassell
Associate Director, Office of Water Quality
Division of Environmental Quality

cc: Gabe Timby, Denali Water Solutions, LLC, gabe.timby@denaliwater.com
Brinkley Israel, Denali Water Solutions, LLC, brinkley.israel@denaliwater.com
Richard Healey, DEQ Office of Water Quality
Bryan Leamons, DEQ Office of Water Quality
Joe Martin, DEQ Office of Water Quality
Basil Hicks, Department of Energy and Environment