



City Sues Dairy Plant Over Untreated Industrial Waste Discharges: *City of Carbool v. Dairy Farmers of America*

October 2019

On September 3, the City of Cabool filed a Petition against Dairy Farmers of America, Inc. (DFA) to recover compensatory and punitive damages, as well as attorneys' fees, for discharges of untreated waste from DFA's dairy plant to the City's sewage treatment system. These discharges occurred from February 2018 to August 2019 and continued after DFA was put on notice of the alleged violations. The City also sued the company's chief operating officer (COO) in his official and individual capacity—officially for being DFA's responsible agent and personally because of alleged intentional behavior to cover up and conceal the discharges from supervisors. DFA's operating permit requires pretreatment by DFA's wastewater treatment unit of any waste discharged into the City's wastewater system. Back in July, DNR cited DFA for discharges of untreated waste materials in violation of its permit.

On September 4, the court awarded the City a temporary injunction to stop DFA from discharging untreated waste. However, that injunction was dissolved on September 12 after DFA (1) agreed to not unlawfully discharge during the duration of the litigation and (2) promised to alert the City if its monitoring does show an instance of untreated discharge. In its Petition, the City also asked for preliminary and mandatory permanent injunctions enjoining the same conduct.

The City estimates it will need to spend over several million dollars to correct damage to the wastewater system and has said it has already spent more than \$400,000 in emergency services and protective actions. The City claims this includes an order of special products, requested by DFA and paid for by the City, to help DFA with the untreated wastewater discharged materials, which DFA refused to repay.

We will keep members updated on how this case proceeds.