

Public Records Request #3676

The following materials have been gathered in response to public records request #3676. These materials include:

- Charlotte-Mecklenburg Storm Water Services – Service Request Report #70807
- Charlotte-Mecklenburg Storm Water Services – Notice of Violation Letter

This information was provided as a response to a public records request on 5/29/20 and is current to that date. There is a possibility of more current information and/or documents related to the stated subject matter.

Further Information

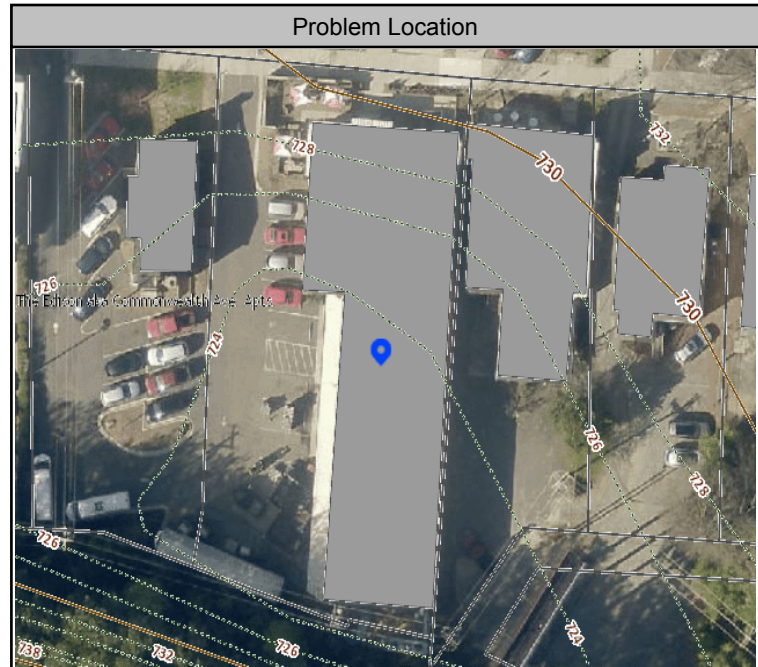
For further information about this request or the Citywide Records Program, please contact:

Cheyenne Flotree
Citywide Records Program Manager
City of Charlotte/City Clerk's Office
600 East 4th Street, 7th Floor
Charlotte, NC 28202
Cheyenne.Flotree@charlottenc.gov

Amelia Knight
Public Records Specialist
City of Charlotte/City Clerk's Office
600 East 4th Street, 7th Floor
Charlotte, NC 28202
Amelia.Knight@charlottenc.gov

Service Request Report

General Information
Request ID: 70807
Status: In Progress
Emergency: No
Initial Call: 5/12/2020 11:24:47AM
Initiated By: SPIDEL, RYAN
Date/Time Init: 5/12/2020 11:26:41AM
Submit To: Besier, Timothy
Dispatch To: Besier, Timothy
Closed By:
Date Closed:
Pending for 14 days



Caller Information
Caller: MALCOLM EDWARDS
Address:
Phone Number: 704-649-5098
Customer Notified: No

Incident Information
Address: 1906 COMMONWEALTH AV Charlotte - (Briar Creek)
Type: General Water Quality Service Request
Problems Found: 1 - Resolved: 0
Details: Charlotte Water responded to a sewer odor in Briar Creek and tracked the source up to Legion Brewery. The observed them washing material into the storm drain. Please respond and investigate.

Inspections Summary					
Insp. ID:	Insp. Type:	Insp. Date:	Customer:	Inspector:	Attachments
51145	General Inspection	5/12/2020 12:10:00PM	Phase1	Besier, Timothy	6
Incident type	Discharge/dump				
Media impacted	Stream				
Material released	Other - specify:		Spent grain liquid		
Investigation methods used	Physical				
Educational material distributed	NO		Do NOT answer question 13-16		
Land use type for activity location	Commercial				

Summary: On May 12, 2020, Mr. Timothy Besier of Charlotte-Mecklenburg Storm Water Services (CMSWS) responded to a reported discharge of spent grain to the municipal storm water system from Legion Brewing Company at 1906 Commonwealth Avenue in Charlotte (the site). Prior to inspecting the brewing facility, Mr. Besier inspected the storm water infrastructure downgradient of the brewery. He observed a whitish foam in a tributary of Briar Creek just downgradient of the storm water outfall servicing the site. He also noted a strong fermentation odor in the vicinity of the outfall. Upon arrival to the site, Mr. Besier observed two totes of spent grain in the site's parking lot. No secondary containment was observed around the totes and the surrounding pavement appeared wet. Mr. Besier also noted a same fermentation odor that was present around the downgradient outfall. While on site, Mr. Besier spoke to several brewery employees about their spent grain handling practices. After the grains are used in the brewing

process, a majority of the liquid is removed from them. The drained liquid is reportedly disposed of in the sanitary sewer system. The dewatered grains are then loaded into totes and staged in the site's parking lot for one to two days until they are picked up by local farmers (for use as livestock feed). However, liquid continues to drain from the dewatered grains during this staging period. According to the brewery employees, each tote typically releases several gallons of liquid onto the ground surface prior to being picked up by the local farmers. The spent grain liquid flows downgradient to a storm water swale located at the south portion of the site. From there the liquid enters the nearby tributary to Briar Creek via an outfall along Shenandoah Avenue. Additionally, the parking lot is reportedly pressure washed regularly to remove spent grain liquid residue from the asphalt. The wash water is also allowed to enter the storm water system via the same swale. Mr. Besier told the employees that the release of spent grain liquid represents an illicit discharge. He told the employees to install a bermed structure around the spent grain totes to capture the liquid that releases from them. He stated that any captured liquid would need to be disposed of into the sanitary sewer system. He also requested that the employees stop discharging wash water to the storm water system. Prior to leaving the site, Mr. Besier provided several employees with his business card and requested that the brewery owner (who was not present at the time of Mr. Besier's inspection) to call him as soon as possible.

Insp. ID:	Insp. Type:	Insp. Date:	Customer:	Inspector:	Attachments
51148	Notice of Violation		Phase1	Besier, Timothy	1
Date violation observed	5/12/2020 12:00:00 PM				
Business/Activity Type	Food Services	Brewery			
Written NOV date	5/13/2020 12:00:00 PM				
Required compliance date	5/27/2020 12:00:00 PM				
Charlotte ordinance violation	Illicit discharge and disposal	Chapter 18, Article III, Storm Water Pollution, Section 18			
Repeat violator	NO				
Material released	Other - specify:	Spent grain liquid			
Summary: A notice of violation (NOV) is being issued to Legion Brewing for the illicit discharge of spent grain liquid to the storm water system.					

Insp. ID:	Insp. Type:	Insp. Date:	Customer:	Inspector:	Attachments
51337	General Inspection	5/14/2020 3:40:00PM	Phase1	Besier, Timothy	3
Investigation methods used	Physical				
Educational material distributed	NO	Do NOT answer question 13-16			
Summary: On May 14, 2020, CMSWS received an additional complaint of an unusual odor originating from the tributary of Briar Creek. The odor was observed at 2125 Laburnum Avenue (just downgradient of the outfall where Mr. Besier noted an odor on May 12, 2020) by [REDACTED]. Mr. Besier met with [REDACTED] at the property later that afternoon to perform an inspection of the creek. Upon arrival, Mr. Besier noted a strong, unidentifiable odor originating from the creek. The odor smelled slightly different from the odor Mr. Besier observed in the same creek farther upstream on May 12, 2020. However, it was characteristic of decaying organic material and/or fermentation. Mr. Besier determined the odor was very likely caused by the same spent grain liquid discharge observed upstream. The slight differences in the odor at the two locations were likely a result of the spent grain being in varying stages of decomposition. While at the property, Mr. Besier also noted a brownish algae in the creek. Mr. Besier told [REDACTED] that the smell was likely caused by the spent grain liquid discharge at Legion Brewing. Mr. Besier indicated he would follow up with [REDACTED] after the causes of the discharge are addressed. Following his conversation with [REDACTED], Mr. Besier walked upstream to the outfall that services Legion Brewing. He noted a similar smell and the same brownish algae in the creek that was observed at 2125 Laburnum Avenue. Based on the strength of the odor observed at 2125 Laburnum Avenue, as well as the property's distance from Legion Brewing (approximately 1/3 mile), the spent grain liquid discharge is likely larger than originally estimated. Mr. Besier will return to the brewery to perform dye testing of the facilities interior drains to ensure there are no improper connections to the storm water system.					

Insp. ID:	Insp. Type:	Insp. Date:	Customer:	Inspector:	Attachments
51359	General Inspection	5/15/2020 1:20:00PM	Phase1	Besier, Timothy	6
Investigation methods used	Dye Test				
Educational material distributed	NO	Do NOT answer question 13-16			



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<http://stormwater.charmeck.org>



Summary: Mr. Besier returned to Legion Brewing on the afternoon of May 15, 2020 to dye test the interior floor drains in the facility's brewing area. Upon arrival to the site, Mr. Besier observed a small amount of spent grain liquid in the parking lot surrounding several empty grain totes. However, several hay bales had been placed at the southeast corner of the site to help prevent the migration of any liquids spilled in the parking lot. Additionally, one of the brewery employees told Mr. Besier that brewery staff would be sealing all grain totes in the parking lot to prevent future discharge of spent grain liquid. According to several employees Mr. Besier spoke to on May 12, 2020, a majority of the spent grain liquid, as well as other brewing waste liquid, is disposed of into these floor drains. Mr. Besier poured tracing dye into one of the floor drains to determine if any connectivity exists between the drains and the municipal storm water system. Following application of the dye and sufficient drain flushing, Mr. Besier inspected the outfall downgradient of the brewery for dye. Mr. Besier waited over an hour but did not observe dye in any downgradient catch basins, outfalls, or water bodies. Based on these observations, there appears to be no connectivity between the floor drains in the site building and storm water infrastructure. Although no dye was observed, Mr. Besier still noted an odor and observed brownish algae in the creek. He collected water quality measurements of the creek with a YSI multiparameter water quality meter. Despite the creeks visual and olfactory impairments, all water quality parameters were within normal ranges for local creeks. Mr. Besier will perform a follow-up inspection of the creek and brewery after sufficient remediation has been performed and the creek has been flushed by upcoming storm events.



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May 13, 2020

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Legion Brewing Company, LLC
Attention: Philip C. Buchy, IV, Owner/Owner
1906 Commonwealth Avenue
Charlotte, NC 28205

Subject: **NOTICE OF VIOLATION**
CITY OF CHARLOTTE
CODE OF ORDINANCES
Chapter 18, Article III
Stormwater Pollution
Section 18-80(a), Illicit Discharge
and Disposal

Dear Mr. Buchy:

North Carolina General Statute 160A-459 authorizes cities to adopt and enforce a stormwater control ordinance to protect water quality and control water quantity. The City of Charlotte has adopted a Stormwater Pollution Control Ordinance (the "Ordinance") which was amended and effective as of June 9, 2008.

On May 12, 2020, Mr. Timothy Besier of Charlotte-Mecklenburg Storm Water Services (CMSWS) conducted an investigation at 1906 Commonwealth Avenue in Charlotte, North Carolina. The investigation was conducted under authority granted by the Ordinance, as specified in Section 18-82, Powers and Authority for Inspection. As a result of the investigation, the following conditions were observed at the investigation location in violation of the Ordinance, Section 18-80(a), Illicit Discharge(s) and Disposal(s):

Spent grain liquid originating from Legion Brewing was observed entering the storm water system and discharging to an unnamed tributary to Briar Creek.

The investigation determined that Legion Brewing Company, LLC is the "Person" responsible for the violation, as defined by the Ordinance. As such, several brewery employees were verbally notified of the violation on May 12, 2020 and directed to immediately cease the discharge causing the violation. To achieve compliance with the legal requirements of the Ordinance, Legion Brewing Company, LLC must implement the corrective actions listed below:

- Immediately cease any discharge contributing to the violation if not done so already; and,
- Restore areas affected by the violation, as described above, to their pre-violation condition; and,

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Attention: Philip C. Buchy, IV, Owner
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- Take appropriate remedial and/or preventive actions to prevent future illegal discharges.

Legion Brewing Company, LLC is required to submit a written response to this office within ten (10) days following receipt of this notice. The response should specify 1.) why the violation occurred, 2.) the actions taken to correct the violation, 3.) the actions taken to restore the affected areas, 4.) the actions taken to prevent the occurrence of violations in the future, and 5.) any other information or explanation Legion Brewing Company, LLC wishes to present regarding the violation. The response will be taken into consideration in penalty assessment decisions. Please send the response to:

Charlotte-Mecklenburg Storm Water Services
Attention: Olivia Edwards
2145 Suttle Ave.
Charlotte, NC 28208-5237

In accordance with the Ordinance, Section 18-83(c) Civil Penalties, Legion Brewing Company, LLC is subject to civil penalties of up to Five Thousand Dollars (\$5,000.00) per day beginning with the first day of violation and every day thereafter up until the violation ceases. **It is the responsibility of Legion Brewing Company, LLC** to contact the Investigator (Timothy Besier, at (704) 507-0941) immediately upon ceasing the violation and restoring the areas affected by the violation in order to document compliance with the Ordinance and to minimize the total potential penalty. Unless scheduled earlier by Legion Brewing Company, LLC, a follow-up inspection will occur no later than May 27, 2020 to determine compliance with the Ordinance. Please note that until that determination occurs, Legion Brewing Company, LLC will continue to be in violation of the Ordinance.

CMSWS will take any steps necessary to secure compliance with the Ordinance. One such step is that CMSWS or a contractor designated by CMSWS may abate a violation and/or restore impacted areas to their pre-violation condition should Legion Brewing Company, LLC fail to do so in a timely manner, especially in situations where the violation may cause an imminent threat to human health or the environment. Any expense incurred by CMSWS for such violation abatement and/or restoration work will be charged to Legion Brewing Company, LLC, in addition to the civil penalty.

If you have any questions or would like to request a meeting with CMSWS to discuss the violation and provide additional information, please contact me at (980) 721-2056 within ten (10) days following receipt of this notice. Please be aware that a meeting request or an actual meeting with CMSWS does not relieve Legion Brewing Company, LLC from completing the corrective actions listed above and does not negate a potential penalty.



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Achieving and maintaining compliance with Section 18-80(a) of the Ordinance does not relieve Legion Brewing Company, LLC from complying with other sections of the Ordinance or other local, state, or federal regulations.

For your information, the Ordinance is available for view on the Internet at:
<http://charlottenc.gov/StormWater/Regulations/Documents/CharlotteSWPollControlOrd06092008.pdf>. Copies of the Ordinance are also available in print or PDF file format from CMSWS upon request.

Your prompt cooperation in this matter is requested.

Sincerely,



Olivia Edwards
Water Quality Supervisor
Charlotte-Mecklenburg Storm Water Services

OJE / TRB

cc: Steve Jadlocki, CMSWS
Rusty Rozzelle, CMSWS

FILE: NOV Cityworks Activity Report #51148



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