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Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Garland County Improvement District Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Mountain Top Suburban Improvement District (“Mountain Top”) entered into an April 10th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 21-034.

The CAO provides that Mountain Top operates a non-municipal domestic sewage treatment works (“Facility”) in Garland County, Arkansas.

The Facility discharges treated wastewater to an unnamed tributary of Mill Creek which eventually moves to the Ouachita River. Such discharge is regulated pursuant to an NPDES permit.

The NPDES permit is stated to have expired on December 31, 2017. DEQ is stated to have notified Mountain Top that the permit would expire and that in order to continue the regulated activity, a complete renewal application must be submitted no later than July 4, 2019. Such NPDES permit renewal application was submitted on July 8, 2017.

On August 8, 2017, and August 30, 2017, DEQ notified Mountain Top that the renewal application was incomplete. Mountain Top subsequently submitted additional information.

The CAO provides that on September 7, 2017, the NPDES permit was placed on administrative hold for minerals. DEQ notified Mountain Top on November 29, 2017, that the permit renewal application was administratively complete.

DEQ and Mountain Top entered into a CAO (LIS 18-018) on April 10, 2018, for failure to submit a complete renewal application.

The CAO provides that DEQ received a complaint that the Facility was overflowing into the yards and neighboring areas and running into Mill Creek and Lake Desoto on July 7, 2020. DEQ subsequently requested information from Mountain Top concerning the complaint.

A Compliance Evaluation Inspection was conducted on July 9, 2020, in response to the complaint. During the inspection DEQ is stated to have documented the following:

- Activated sludge plant is aging and deteriorating;
- Excessive infiltration to the collection system caused the sludge blanket to wash out to the sand filter beds;
- Solids were observed in the sand filter beds; and
- Chlorine tablets were not in contact with the effluent.

Such conditions are alleged to constitute a failure to properly operate and maintain the Facility.

DEQ received Mountain Top's response to the request for information on July 9, 2020.

The CAO provides that on August 13, 2020, DEQ received a complaint that the Facility behind the Brookshire Grocery Store was overflowing. A DEQ Reconnaissance Inspection was conducted on August 17, 2020. During the inspection, DEQ is stated to have identified the following:

- Excessive corrosion of the platforms and walkways of the package plant;
- Aeration system is not working properly-a blower was down and the air distribution system was deteriorated and non-functional;
- Thick, gray foam and noxious odors were noted in the aeration basin;
- Wastewater was not evenly distributed on the sand filter beds;
- Excessive solids and algae were noted on the surface of the sand filter media; and
- Containment structure for the sand filter beds had allowed an overflow of wastewater.

Such conditions are stated to demonstrate Mountain Top's failure to properly operate and maintain the Facility.

DEQ is stated to have conducted a review of certified Discharge Monitoring Reports ("DMRs") submitted by Mountain Top. The following violations of permitted effluent discharge limits are stated to have been identified:

- Four violations of Fecal Coliform Bacteria;
- Three violations of Carbonaceous Biochemical Oxygen Demand;
- Two violations of Ammonia Nitrogen; and
- Two violations of Total Suspended Solids.

DEQ subsequently requested from Mountain Top:

- A list of entities connected to the Facility
- A Corrective Action Plan ("CAP") certified by an Arkansas Professional Engineer
- Written responses to the two previous inspections
- A contract for the operator

Mountain Top subsequently submitted the requested information along with a CAP with a compliance date of July 31, 2020.

DEQ approved the CAP but asked that a timeline for submittal for the proposed new lagoon wastewater treatment plant be provided. Mountain Top subsequently provided the timeline. In response to a DEQ request, Mountain Top submitted on November 6, 2020, an interim operating plan.

Mountain Top is required to comply with the existing NPDES permit until the effective date of the renewal NPDES permit. Further, Mountain Top is required to comply with the terms, milestone schedule, and final compliance date in the approved CAP. Such milestone schedule and final compliance date are fully enforceable through the CAO.

Mountain Top is also required to submit to DEQ a State Construction Permit application on or before May 31, 2021, to construct a new wastewater treatment plant that is sized appropriately for the number and

types of connections to the system and capable of consistently meeting the permit effluent discharge limitations. Construction and compliance is required to be completed no later than 18 months from the effective date of the State Construction Permit. Quarterly interim reports are also required.

A civil penalty of \$5,200 is assessed which is conditionally suspended contingent upon Mountain Top complying with the terms of the CAO.

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