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# Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and City of Fountain Hill Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and City of Fountain Hill, Arkansas, (“Fountain Hill”) entered into a September 15th Consent Administrative Order (“CAO”) addressing an alleged violation of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 21-088.

The CAO provides that Fountain Hill operates a municipal wastewater treatment plant (“Facility”) in Ashley County, Arkansas.

The Facility is stated to discharge treated wastewater to an unnamed tributary of Flat Creek which eventually flows to the Arkansas River. Such discharge is regulated pursuant to an NPDES permit.

DEQ is stated to have provided Fountain Hill a request on August 22, 2017, for a Corrective Action Plan (“CAP”) to address violations of NPDES permit effluent discharge limitations. The CAP was required to have a milestone schedule, final date of compliance of December 31, 2017, and be certified by an Arkansas Professional Engineer.

Fountain Hill is stated to have submitted a CAP to DEQ with an extended compliance date. The CAP was approved. Monthly progress reports were requested and submitted.

DEQ is stated to have notified Fountain Hill on May 11, 2020, that certain Discharge Monitoring Reports (“DMRs”) and parameters were missing from NetDMR. A DEQ review of certified DMRs is stated to have indicated certain alleged violations from January 1, 2019, through August 31, 2020:

1. Thirty-five (35) violations of Total Suspended Solids;
2. Thirty-three (33) violations for Ammonia Nitrogen;
3. Twenty-four (24) violations of Carbonaceous Biochemical Oxygen Demand (CBOD);
4. Twenty (20) violations of Fecal Coliform Bacteria; and
5. Thirteen (13) violations of Dissolved Oxygen.

DEQ is stated to have sent a letter requesting a CAP to address the previously referenced alleged violations, along with a milestone schedule and final date of compliance of March 31, 2021.

DEQ is stated to have notified Fountain Hill on March 11th that DMRs were missing from NetDMR. The missing DMRs were requested to be submitted, along with a CAP update by March 18th. The missing DMRs were subsequently submitted along with the CAP update.

DEQ requested a revised CAP and a milestone schedule by April 30, 2020. Further, DEQ and Fountain Hill are stated to have met to discuss the alleged repeated effluent violations and corrective actions. The revised CAP submitted on April 29 included plans to perform a Sanitary Sewer Evaluation Study (“SSES”) which was required to be completed by March 31.

DEQ is stated to have conducted a review of certified DMRs on April 29th. The following violations were allegedly identified:

1. Thirty-one (31) violations of Total Suspended Solids;
2. Twenty-three (23) violations of Ammonia Nitrogen;
3. Twenty-one (21) violations of CBOD;
4. Seventeen (17) violations of Fecal Coliform Bacteria; and
5. Eight (8) violations of Dissolved Oxygen.

The DMR review is also stated to have indicated that Fountain Hill failed to timely submit the following DMRs:

1. 2018: February, March, April, June, August, September, October, November, and December; and
2. 2019: January through December; and
3. 2020: January through May, and July through December; and
4. 2021 : January and May.

The CAO requires that Fountain Hill submit all DMRs in accordance with Part III, Section C, Condition 5 of the NPDES permit. Further, within 30 calendar days of the effective date of the CAO Fountain Hill must submit to DEQ a written certification stating that it is in full compliance with the NPDES permit and will remain in compliance with the permitted effluent limits on a consistent basis.

Within 60 calendar days of the effective date of the CAO Fountain Hill is required to develop and submit to DEQ for review and approval a SSES for its sanitary sewer collection system certified by an Arkansas Professional Engineer. The SSES is required to have certain specified elements. The SSES is also required to include a Sanitary Sewer Overflow Plan with a milestone schedule.

Progress reports are required to be submitted in regards to the specified tasks.

A civil penalty of \$9,750 is assessed, which is conditionally suspended if Fountain Hill fully complies with the CAO.

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