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Wastewater Enforcement: Arkansas Department of Energy & Environment and Faulkner County Nonmunicipal Sewage Treatment Works Enter into Consent Administrative Order

03/04/2022

The Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) and Hadden’s Place Utility Operating Company, LLC (“Hadden’s”) entered into a January 24th Consent Administrative Order (“CAO”) to address alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 22-009.

The CAO provides that Hadden’s operates a wastewater treatment plant (“Facility”) in Faulkner County, Arkansas.

The Facility is described as a “nonmunicipal domestic sewage treatment works” as defined by Ark. Code Ann. § 8-4-203(b)(1)(B).

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

The Facility is stated to have been unable to submit a certification of compliance for the final effluent discharge limitations for Total Residual Chlorine (“TRC”) as required by the NPDES permit. Further, DEQ is stated to have conducted a review of certified Discharge Monitoring Reports (“DMRs”) and identified the following violations:

1. Ten (10) violations of Total Suspended Solids;
2. Ten (10) violations of Ammonia Nitrogen;
3. Three (3) violations of Dissolved Oxygen;
4. Two (2) violations of Fecal Coliform Bacteria; and
5. Two (2) violations of Carbonaceous Biochemical Oxygen Demand.

DEQ is stated to have sent Hadden’s a letter requesting a Corrective Action Plan (“CAP”) to address the alleged violations of the permitted effluent limitations. A CAP was submitted to DEQ on August 9, 2018, with a final compliance date of November 30, 2019. DEQ subsequently approved the CAP.

Hadden's submitted an update to the CAP on December 21, 2018, stating the Facility was in compliance with the effluent limitations of the permit. However, Hadden's stated it was going to continue to monitor the Facility to determine if additional corrective actions were necessary.

DEQ requested on February 8, 2019, an update on the status of the compliance of the Facility. Hadden's submitted an update to the CAP which stated that it would be submitting an application for a construction permit for additional repairs/upgrades at the Facility.

DEQ subsequently requested an update of the CAP be submitted. Such CAP was submitted to DEQ on January 22, 2021, with a final compliance date of August 15, 2022. DEQ subsequently approved the updated CAP.

DEQ undertook on January 25, 2021, a follow-up review of DMRs submitted by Hadden's. Such review is stated to have identified the following violations of effluent limitations:

1. Fifty-nine (59) violations of Ammonia Nitrogen;
2. Forty-two (42) violations of Total Suspended Solids;
3. Ten (10) violations of Carbonaceous Biochemical Oxygen Demand;
4. Five (5) violations of Total Residual Chlorine;
5. Five (5) violations of Fecal Coliform Bacteria; and
6. Two (2) violations of Dissolved Oxygen.

Hadden's submitted a request to DEQ on February 5, 2021, asking for an increase in the design treatment capacity of the Facility. Such request was stated to be part of the Facility's corrective actions necessary to provide adequate treatment. Hadden's is stated to believe that the Facility has experienced increased inflow volume that may be from sump pumps and drain connections from houses served by the Facility.

The CAO provides that Hadden's proposed corrective actions include an increase that would require it to make an initial trust fund contribution. Hadden's submitted an estimate of the cost to increase the design treatment capacity of the Facility on March 4, 2021. DEQ subsequently requested additional information concerning the estimate of the cost to increase the design treatment capacity of the Facility. This information was provided by Hadden's on April 6, 2021.

DEQ approved a reduced initial trust fund contribution based on Hadden's updated estimate of the cost for specific items that would result in an increase in the design treatment capacity of the Facility.

Hadden's subsequently notified DEQ that due to delays in obtaining a state construction permit that the milestone schedule listed in the approved updated CAP may be altered.

DEQ is stated to approve Hadden's request to increase the design treatment capacity of the Facility as part of its corrective actions. Further, Hadden's is required to achieve compliance with the effluent limitations in the NPDES permit no later than December 31. Quarterly progress reports detailing the progress being made toward compliance with the NPDES permit are required to be provided to DEQ.

A civil penalty of \$7,200 is assessed which could have been reduced to \$3,600 if the CAO was signed and returned to DEQ within 20 calendar days of its receipt.

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