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Wastewater Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality and Arkansas Department of Corrections Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and the Arkansas Department of Corrections (“ADC”) entered into a July 22nd Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit. See LIS No. 22-082.

The CAO provides that ADC operates a minor industrial wastewater treatment facility (“Facility”) in Izard County, Arkansas.

The Facility is stated to discharge treated wastewater to Moccasin Creek which eventually flows to the White River. Such discharge is regulated pursuant to an NPDES permit.

ADC submitted an updated Corrective Action Plan (“CAP”) in 2015 to address repeated effluent violations with a final compliance date of December 2016. Further, ADC continued to report effluent violations since the final compliance date of December 2016.

DEC met with ADC and McClelland Engineers in 2019 to discuss violations at the Facility and corrective actions taken to resolve them. ADC stated it was in the process of addressing the proper and improper uses of a cleaning chemical.

DEQ is stated to have, on December 13, 2021, conducted a review of certified Discharge Monitoring Reports (“DMRs”) submitted by ADC in accordance with the NPDES permit.

The following violations were allegedly identified:

1. Twenty (20) violations of Fecal Coliform Bacteria;
2. Fifteen (15) violations of Nitrate+Nitrite-Nitrogen;
3. Eight (8) violations of Total Suspended Solids;
4. Five (5) violations of Ammonia Nitrogen;
5. Three (3) violations of Dissolved Oxygen;

6. Two (2) violations of Oil and Grease; and
7. One (1) violation of Carbonaceous Biochemical Oxygen Demand.

The DEQ review is also stated to have indicated that ADC has reported flow data greater than the Facility's permitted design flow 36 months out of the 36-month review period.

The CAO requires that ADC within 30 calendar days of its effective date submit to DEQ for review and approval a comprehensive CAP developed by an Arkansas licensed Professional Engineer. Such CAP is required to include, at a minimum, the methods and best available technologies that will be used to correct the alleged violations and include a milestone schedule with a date of final compliance. Once approved by DEQ, such terms, etc., are fully enforceable pursuant to the CAO. Further, quarterly reports must be provided regarding progress.

The CAO also requires within 90 calendar days of its effective date that ADC submit to DEQ for review and approval a comprehensive Sanitary Sewer Flow Monitoring and Infiltration and Inflow ("I/I") Study ("Study") developed by an Arkansas Professional Engineer which includes, at a minimum:

- A baseline for sanitary sewer flows
- Rainfall monitoring
- Estimate of available sewer capacity
- Identification of sources of I/I
- Estimation of I/I
- Plan and milestone schedule for reducing I/I with a date of final compliance

A milestone schedule and final compliance date must also be provided and will be enforceable as terms of the CAO.

A civil penalty of \$6,400 is assessed which is conditionally suspended on the condition that ADC fully complies with the CAO.

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