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

Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

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The Arkansas Department of Energy & Environment - Division of Environmental Quality ("DEQ") and City of Bay, Arkansas ("Bay") entered into an October 16th Consent Administrative Order ("CAO") addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System ("NPDES") permit. See LIS No. 23-078.

The CAO provides that Bay operates a municipal wastewater facility ("Facility") in Craighead County, Arkansas.

The Facility is stated to discharge treated wastewater to Ditch No. 6 which eventually flows into the St. Francis River. Such discharge is regulated pursuant to an NPDES permit.

Part III, Section D, Condition 10 of the permit requires Bay to submit a complete permit renewal application at least 180 days prior to the expiration of the NPDES permit if the activity regulated is to continue after the expiration date. Bay is stated to intend to operate the Facility beyond the expiration date of the current NPDES permit.

DEQ is stated to have received a NPDES permit renewal application from Bay on May 15th. Bay is stated to have been informed that the application was incomplete and listed information needed to complete the application. Additional information was received from Bay and the City was notified that the application was administratively complete on July 26th. However, failure to submit the complete NPDES permit renewal application by May 4th is a violation of Part III, Section D, Condition 10 of the NPDES permit.

DEQ conducted a review of certified Discharge Monitoring Reports ("DMRs") on May 19th submitted by Bay in accordance with the NPDES permit. The review allegedly reviewed the following violations of effluent discharge limits:

a. Ten violations of Ammonia Nitrogen;

b. Two violations of Carbonaceous Biochemical Oxygen Demand; and

c. One violation of Fecal Coliform Bacteria.

The review of the DMRs is also stated to have indicated that Bay failed to submit noncompliance reports for effluent violations reported during the following five monitoring periods:

a. 2019: July;

b. 2020: April, August; and

c. 2021: April, May.

The review of the DMRs is also stated to have indicated that Bay failed to submit DMRs by the due day for the following 16 monitoring periods:

a. 2019: April, May, July, August, September, October;

b. 2020: February, March, April, May, June, September;

c. 2022: September, November, December; and

d. 2023: January.

Bay is required to comply with the existing NPDES permit until either the effective date of the NPDES permit renewal or the effective date of the permit termination. Further, on or before the effective date of the CAO, Bay is required to certify compliance with the effluent limits set forth in Part I, Section A of the permit. Alternatively, Bay is required to submit a Corrective Action Plan ("CAP").

The CAP is required to be submitted within 30 calendar days of the effective date of the CAO for review and approval. It is required to be developed by an Arkansas Professional Engineer and include at a minimum the methods and best available technologies that would be used to correct the violations listed in the Findings of Fact and prevent future violations. A milestone schedule must be included. In addition, quarterly progress reports are required.

The CAO also requires that Bay submit to DEQ complete NCRs detailed each effluent limit violation and the actions taken to address the effluent limit violations that occurred between July 1, 2019, and May 31, 2021.

A civil penalty of $3,150 is assessed which could have been reduced to $1,575 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.