Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and U.S. Army Corps of Engineers (Cowhide Cove Recreation Area) Enter into Consent Administrative Order



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10/11/2024

The Arkansas Department of Energy and Environment – Division of Environmental Quality ("DEQ") and the United States Army Corps of Engineers ("Corps") entered into a September 25th Consent Administrative Order ("CAO") addressing an alleged violation of a Clean Water Act National Pollutant Discharge Elimination System ("NPDES") Permit. See LIS No. 24-140.

The Corps is stated to operate a non-municipal domestic sanitary wastewater treatment plant ("Facility") located in Murfreeboro, Arkansas.

The Facility is stated to be in the Cowhide Cove Recreation Area adjacent to Lake Greeson.

Wastewater is discharged to Lake Greeson which eventually flows to the Arkansas River. The discharge is regulated pursuant to an NPDES Permit.

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

The Corps is stated to have notified DEQ on July 17th that it intended to submit a no-discharge permit application. However, the Corps has not submitted a complete permit renewal application or a no-discharge permit application to date.

The CAO states that the failure to submit the complete NPDES permit renewal application by June 3rd is a violation of Part III, Section D, Condition 10 of the NPDES Permit.

DEQ is stated to have conducted a review of the Discharge Monitoring Reports ("DMRs") submitted by the Corps in accordance with the NPDES Permit. Further, DEQ has sent the Corps on June 26th, 2023, a letter requesting a Corrective Action Plan ("CAP") be submitted to address effluent violations.

A CAP was submitted to DEQ on August 7th, 2023, with a final compliance date of December 1st. The CAP was deemed adequate (with comments) by DEQ.

DEQ is stated to have conducted a review of DMRs submitted by the Corps on November 18th, 2023. The review is stated to have identified the following violations:

- Five (5) violations of E. coli;
- Four (4) violations of Total Residual Chlorine; and,
- Three (3) violations of Ammonia Nitrogen.

DEQ conducted a follow-up review of DMRs on June 18th. The review is stated to have identified the following violations:

- Two (2) violations of Total Residual Chlorine; and,
- One (1) violation of Total Phosphorus.

The CAO provides that the Corps was to submit a certification that the Facility is in compliance with the final effluent limits for Total Residual Chlorine ("TRC") and Total Phosphorus ("TP") three years from the effective date of the NPDES Permit. The Corps submitted progress reports on January 7th, 2021, and November 30th, 2021, detailing the actions taken to achieve compliance with the final effluent limits for TRC and TP. Further, the Corps submitted a letter to DEQ regarding their sample results on February 8th, 2023, for TRC and TP. Such sample results are stated to have indicated that the Facility was not in compliance with the final effluent limits for TRC. This is stated to have been a failure to certify compliance with the final effluent limits for TRC by December 1st, 2021, violating the NPDES Permit.

The CAO requires that the Corps submit an administratively complete no-discharge permit application on or before the effective date of the document. Further, the Corps is required to comply with the existing NPDES Permit until either the effective date of the no-discharge permit or the effective date of the Permit termination. In addition, the Corps is required to comply with the terms, milestone schedule, and final compliance date contained in the approved CAP. Such terms are fully enforceable as terms of the CAO. Quarterly progress reports are required.

The Corps agrees to a civil penalty of $7,400.00 for any ongoing and future violations related to the violations specified in the findings of fact should the Corps fail to remedy the ongoing violations prior to the final compliance date contained in the approved CAP. If the Corps fully complies with the CAO, the proposed penalty of $7,400.00 shall not be pursued by DEQ.

A copy of the CAO can be downloaded here.