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

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and the City of Keo, Arkansas, (“Keo”) entered into a February 10th Consent Administrative Order (“CAO”) addressing an alleged violation of a Clean Water Act National Pollution Discharge Elimination (“NPDES”) permit. See LIS No. 20-116.

The CAO provides that Keo operates a municipal wastewater treatment facility (“Facility”) in Lonoke County, Arkansas.

The Facility is stated to discharge treated wastewater to an unnamed tributary of North Bayou that eventually flows into the Arkansas River Basin. Such discharge is regulated pursuant to the NPDES permit.

The CAO states that Part III, Section D, Condition 10 requires Keo to submit a complete permit renewal application at least 180 days prior to the expiration date of the permit if the activity regulated by the permit is to continue after the expiration date. Keo is stated to intend to operate the Facility beyond the expiration date of the current permit, January 31, 2020.

DEQ is stated to have received an incomplete NPDES permit application from Keo on July 1, 2019. The City of Keo subsequently submitted additional information. Such application is stated to have been subsequently determined to be administratively complete. However, the CAO provides that the permit renewal application was not received by the required date and, therefore, constituted a violation of Part III, Section D, Condition 10 of the NPDES permit.

The CAO also provides that on July 29, 2019, DEQ performed a Compliance Evaluation Inspection (“CEI”) of the Facility. The following violations were alleged to have been identified:

- Excess vegetation, including woody vegetation, was growing on the levees of both lagoons. This is a violation of Part III, Section B, Condition I .A. of the Permit and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).
- Effluent was leaking under the V-notch weir at Outfall 001. This is a violation of Part III, Section C, Condition 2 of the Permit and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

- No records of any monitoring were kept at the Facility. This is a violation of Part III, Section C, Conditions 7 and 8 of the Permit and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3).

Representatives of Keo and DEQ are stated to have subsequently met to discuss the alleged violations identified during the CEI and the missing permit renewal application information. Keo is stated to have not submitted a response to the alleged violations.

DEQ is stated to have conducted a review of the certified Discharge Monitoring Reports (“DMRs”) submitted by Keo in accordance with the NPDES permit. Certain alleged violations were identified involving failure to report and monitor discharge.

The CAO requires that Keo comply with the existing NPDES permit until the effective date of the permit renewal. It also requires that on or before the effective date of the CAO that Keo remove the woody vegetation and saplings growing on the levees of the lagoons and submit photographic documentation to DEQ demonstrating the removal.

Within 30 calendar days of the effective date of the CAO Keo is required to adjust the V-notch weir so that the effluent flows through it properly. A certification is also required to be submitted by a Professional Engineer. Further, Keo is required to submit upon the effective date of the CAO monthly flow monitoring records showing the flow has been monitored as required by the permit.

Sampling of the effluent according to Part I, Section A of the NPDES permit is required and results submitted. Also, Keo is required to correct the 001-A and the 001-F discharge monitoring reports with a monitoring period end date of July 31, 2019, to report NODI E, Analysis Not Conducted. Relevant records must be retained.

Finally, upon the effective date of the CAO, Keo is required to submit to DEQ a quarterly report with the records specified in Part III, Section C, Condition 8 of the NPDES permit and quarterly reports are required to continue for one year from the effective date of the CAO.

A civil penalty of \$4,200 is assessed of which \$3,700 is conditionally suspended by DEQ.

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