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## Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and West Memphis 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 West Memphis (“City”) entered into a Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 20-134.

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

The Facility is stated to discharge treated wastewater into the Mississippi River. Such discharges are regulated pursuant to an NPDES permit that had been issued to the Facility.

DEQ is stated to have undertaken a review of sanitary sewer overflows (“SSOs”) and treated bypasses reported by the City in accordance with the NPDES permit for the period of March 1, 2016 through March 31, 2019. The review is stated to have indicated the following:

- Respondent reported 134 SSOs. Respondent reported that eighty-three (83) of those SSOs reached waters of the state. Respondent is permitted to discharge treated municipal wastewater from its facility. Respondent is not permitted to discharge untreated wastewater from its collection system. Each SSO constituted an unpermitted discharge.

The City submitted a Corrective Action Plan (“CAP”) to DEQ pursuant to the agency’s request. The CAP is stated to have indicated that the City would conduct testing to identify sources of inflow and infiltration (“I&I”) and a plan to rehabilitate the collection system.

The CAP was subsequently approved by DEQ, including the request that the City complete the Waste Water Treatment Facility (“WWTF”) Recommended Hydraulic Improvement Report by November 30, 2019. Further, the CAO provides that the City was required to submit semi-annual progress reports with the first report due by May 31, 2019.

The progress reports that were submitted are stated to have detailed actions taken to implement the CAP and address the SSOs and unpermitted discharge. A progress report was also stated to have indicated that the WWTF Recommended Hydraulic Improvement Report had been on hold until all models were completed.

The City is stated to have subsequently met to discuss the CAP and a proposed Order. It was agreed that the City would submit a revised CAP, WWTF Recommended Hydraulic Improvement Report, and documentation justifying the design based on the minimum capacity necessary to contain the I&I and direct precipitation by January 31, 2020. The City subsequently submitted a letter to DEQ requesting a penalty reduction and to extend the date of final compliance to December 31, 2023.

The CAO also provides that DEQ conducted a review of certified Discharge Monitoring Reports (“DMRs”) submitted by the City for January 2016 through September 2019. The review is stated to have indicated that the City reported No Analysis Conducted for Outfall 001 for the Whole Effluent Toxicity (“WET”) testing on the December 2017 DMR. This is alleged to constitute a failure to conduct WET testing, violating the permit.

The review is also stated to have indicated that the City reported the following violation of the permitted effluent discharge limits in Part I, Section A of the NPDES permit from March 1, 2016 through March 31, 2019:

- One (1) violation for Fecal Coliform

The CAO provides that the City informed DEQ on August 10, 2018, of a failure to inspect each Significant Industrial User (“SIU”) at least once per year in accordance with the pretreatment provisions of the NPDES permit. This alleged failure is stated to constitute a violation of the permit.

The CAO requires that the City submit a revised CAP with terms, milestone schedule, and final compliance date which shall be reviewed and approved by DEQ. Further, on or before the effective date of the CAO the City is required to submit a WWTF Recommended Hydraulic Improvement Report which shall be implemented (including the recommendations) when approved by DEQ.

Within 30 days of the effective date of the CAO, the City is required to submit for review and approval by DEQ justification developed by a Professional Engineer licensed in the State of Arkansas, for the selected design storm event and the potential for that selected design to eliminate capacity related SSOs and minimize peak flows at the WWTF. Further, the City is required to submit its next semi-annual report on the revised CAP to DEQ on or before June 30, 2020. At a minimum, the report is required to include:

- A list of corrective actions initiated and completed since the previous report
- Number of SSOs that occurred during the reporting period
- Any costs expended for completed projects
- A statement of the overall progress of the CAP
- A quantitative assessment of the reduction of I&I resulting from the completed work
- Upcoming scheduled projects

A civil penalty of \$4,000 is assessed.

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