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Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Arkansas Department of Parks, Heritage, and Tourism Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Arkansas Department of Parks, Heritage, and Tourism – State Parks Division (“Parks Division”) entered into a February 24th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 21-019.

The CAO provides that the Parks Division operates a wastewater treatment system (“Facility”) at Cane Creek State Park in Lincoln County, Arkansas.

The Facility is stated to discharge treated wastewater to Cane Creek lake which flows into Bayou Bartholomew in Segment 2B of the Ouachita River Basin. Such discharge is stated to be regulated pursuant to an NPDES permit.

DEQ is stated to have conducted a review on July 29, 2019, of certified Discharge Monitoring Reports (“DMRs”) submitted by the Parks Division. Such review is stated to have indicated violations of the permitted effluent discharge limitations from August 1, 2016 through June 30, 2019, which include:

1. Six (6) violations of Dissolved Oxygen;
2. Twelve (12) violations of Carbonaceous Biochemical Oxygen Demand;
3. Twenty (20) violations of Total Suspended Solids;
4. Thirty-three (33) violations of Ammonia Nitrogen; and
5. Two (2) violations of Fecal Coliform Bacteria.

DEQ is stated to have sent the Parks Division a letter requesting a Corrective Action Plan (“CAP”) on July 29, 2019, detailing the corrective actions to be taken to achieve compliance with the NPDES permit effluent limits. Such CAP was to contain:

- Milestone Schedule
- Final Compliance Date
- Certification by a Professional Engineer
- Submission to DEQ by September 30, 2019

The Parks Division subsequently requested an extension and it submitted a CAP with a compliance date of October 1, 2020. Further, a CAP Progress Report detailing activities conducted between November 2019 and March 2020 was submitted on April 13, 2020. An additional CAP Progress Report was submitted on July 15, 2020. The submission date for the final compliance report was subsequently extended to October 16, 2020.

The Parks Division subsequently notified DEQ that the Facility had several effluent limitation violations during the September 2020 monitoring period and requested a five-day extension for submitting the final compliance report, which was approved by DEQ.

On October 23, 2020, the Parks Division submitted a CAP Progress Report stating that compliance had not been achieved. Additional corrective actions necessary to achieve compliance, a revised milestone schedule, and revised final compliance date was also referenced.

The Parks Division subsequently reported the following violations of the NPDES permit effluent limits for the monitoring periods beginning July 1, 2019 and ending September 30, 2020:

1. Four (4) violations of Dissolved Oxygen;
2. Seven (7) violations of Carbonaceous Biochemical Oxygen Demand;
3. Thirteen (13) violations of Total Suspended Solids;
4. Eleven (11) violations of Ammonia Nitrogen; and
5. Fifteen (15) violations of Fecal Coliform Bacteria.

On October 27, 2020, DEQ approved (with stipulations) a revised milestone schedule and final compliance date of October 15, 2021.

The CAO requires that the Parks Division submit a revised CAP in accordance with the revised milestone schedule contained in the CAP Progress Report. The CAO also provides in part that:

. . . Due to extreme fluctuations in flow rates associated with seasonal visitor usage at Cane Creek State Park, Respondent shall monitor and evaluate the effectiveness of its CAP and make modifications thereto, if needed, within such additional time to ensure final compliance on or before June 30, 2022.

The approved CAP, milestone schedule, and final compliance date shall be enforceable as terms of the CAO.

The Parks Division is also required to submit to DEQ an evaluation of the sanitary sewer collection system and submit a Sanitary Sewer Remediation Plan identifying sources of inflow and infiltration to the system and also:

- Outline the necessary corrective actions
- Establish a milestone schedule
- Set a final compliance date for completing such actions

Quarterly reporting is required.

A civil penalty of \$6,000 is assessed which is conditionally suspended if the Parks Division fully complies with the CAO.

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