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Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and City of Magazine 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 Magazine, Arkansas, (“Magazine”) entered into a February 10th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 21-016.

The CAO provides that Magazine operates a wastewater treatment plant (“Facility”) in Logan County, Arkansas.

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

DEQ is stated to have sent Magazine on June 14, 2017, correspondence referencing repeated violations of the permitted effluent limits for total ammonia nitrogen. The letter requested a Corrective Action Plan (“CAP”) for such alleged violations. The CAP is stated to have required a milestone schedule, final date of compliance, and certification by an Arkansas Professional Engineer (“P.E.”).

A CAP was submitted to DEQ which was deemed adequate by the agency. However, Magazine was requested to submit a milestone schedule along with quarterly reports. Such milestone schedule is stated to have been submitted with a final compliance date of October 1, 2018. Further, quarterly progress reports were submitted.

DEQ is stated to have notified Magazine through correspondence that the NPDES permit would expire on March 31, 2019, and that a complete renewal application must be submitted to DEQ no later than October 2, 2018. It also notified Magazine through correspondence on May 21, 2018, that the CAP was completed because the corrective action had been undertaken and compliance with the permitted effluent limits had been maintained since September 2016.

DEQ notified Magazine on July 3, 2018, that the NPDES permit would expire on March 31, 2019, and that a complete renewal application must be submitted to the agency no later than October 2, 2018.

DEQ is stated to have conducted a routine compliance evaluation inspection of the Magazine Facility on August 31, 2018. Alleged violations stated to have been documented included:

1. Improper operation and maintenance, as demonstrated by the following conditions:
 1. Vegetation removed from the sand filter beds was not disposed of properly;
 2. Holes in the distribution pipes were clogged and not dispersing water evenly across the entire sand filter bed;
 3. Water was trickling over the sand filter wall; and
 4. The edges of the 90 degree V-notch weir are no longer in a condition to allow for accurate flow measurements.
2. Two (2) Chain of Custody (COC) forms did not clearly indicate which sample was preserved with sulfuric acid. Failure to indicate the sample preservation used for each sample is a violation of Part III, Section C, Condition 8.A of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).
3. Two (2) COC forms did not indicate that the Fecal Coliform Bacteria (FCB) sample was preserved with sodium thiosulfate. Failure to indicate the sample preservation used for each sample is a violation of Part III, Section C, Condition 8.A of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

Magazine is stated to have responded to DEQ correspondence regarding the alleged violations. Further, Magazine submitted a permit renewal application on October 26 and October 30th, 2018. However, the renewal application is stated to have been untimely because it was not submitted at least 180 days before the expiration date of such permit. The renewal application was subsequently deemed administratively complete. In addition, DEQ is stated to have notified Magazine that its inspection response submitted on October 26, 2018, sufficiently addressed the alleged violations documented in the prior inspection.

DEQ is stated to have received an anonymous complaint on July 15, 2020, alleging:

1. The wastewater treatment plant is leaking raw/partially treated sewage into the local stream;
2. Raw/partially treated wastewater is overflowing from number four trickle filter onto the ground;
3. Filters have not been rotated in months therefore clean water flow is suppressed; and
4. Sweeping arms in clarifiers have been inoperable for several months.

DEQ is stated to have conducted a routine compliance evaluation inspection and an SSO/Collection System inspection of the Facility on July 20, 2020.

Alleged violations are stated to have included:

1. There was an unpermitted discharge from the eastern most filter bed that flowed over the south filter bed wall and around the chlorine disinfection structure before rejoining the effluent stream below the V-notch weir.
2. Respondent reported Ammonia Nitrogen exceedances for the months of June 2019 and September 2019.
3. Improper operation and maintenance, as demonstrated by the following conditions:
 1. Excess solids and floating material in the aeration cells of the treatment plant;
 2. Floating material in the clarifiers;

3. The facility does not have a sludge judge for proper process control decisions such as when to waste and return sludge and remove solids from the aeration cells and clarifiers.
4. The lift station on Powell Street needs a sign with contact information listed.
5. The belt guards on the pumps at both lift stations should be re-installed to reduce risk of injury.

DEQ notified Magazine of the inspection results to which Magazine replied, stating:

1. The overflow on the eastern most sand filter bed has been stopped.
2. The solids, floating material, and vegetation was removed from the plant.
3. The holes in the pipe on the western filter bed have been cleaned.
4. The vegetation in the contact chamber has been remove
5. A Sludge Judge has been purchased.
6. The sign with the contact information was replaced at the Powell Street lift station.
7. All belt guards were replaced at both lift stations.
8. An electrician got both lift stations to demonstrate the second pump.

Magazine on September 17, 2020, is stated to have submitted a plan for compliance including implementation of Best Management Practices (“BMPs”) for the reduction of Total Residual Chlorine (“TRC”). Such submission was subsequently deemed adequate by DEQ.

DEQ conducted a review of certified Discharge Monitoring Reports on December 9, 2020, which allegedly indicated nine violations of the Ammonia Nitrogen permitted effluent discharge limits. In addition, a review of the Sanitary Sewer Overflows (“SSOs”) is stated to have indicated one SSO between July 1, 2017 and August 31, 2020.

The CAO requires that within 60 days of its effective date that Magazine submit to DEQ for review and approval a comprehensive CAP developed by an Arkansas Professional Engineer. The CAP is requested to include an evaluation of treatment system and its components to include the filter beds to ensure optimum operation and treatment, milestone schedule, and final compliance date of June 30, 2022.

Magazine is also required within 90 days of the effective date of the CAO to submit for review and approval a comprehensive Sanitary Sewer Flow Monitoring and Infiltration and Inflow Study (“I&I”) developed by an Arkansas P.E. It is required to include at a minimum a baseline for sanitary sewer flows, rainfall monitoring, an estimate of available sewer capacity, identification of sources of I&I, an estimation of I&I, and a plan and milestone schedule for reducing I&I with a final compliance date no later than December 31, 2023. Quarterly progress reports are required.

A civil penalty of \$2,800 is assessed which could have been reduced to \$1,400 if the CAO is signed and returned to DEQ within 20 calendar days of its receipt.

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