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

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The Arkansas Department of Energy and Environment - Division of Environmental Quality (“DEQ”) and City of Flippin, Arkansas (“Flippin”), entered into a September 21st Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 21-104.

The CAO provides that Flippin discharges treated wastewater to Fallen Ash Creek, which eventually flows into the White River.

The facility discharge is regulated pursuant to an NPDES permit.

Flippin is stated to have submitted a non-compliance letter with a non-compliance report on June 20, 2018, to explain an Ammonia Nitrogen violation reported during the May 2018 monitoring period.

The letter is stated to have detailed plans Flippin had to clean, camera, and inspect the entire collection system. Such letter also included a final compliance date of November 2019 for repairs and of May 2019 to complete the collection system repairs. DEQ was subsequently notified of a delay on October 23, 2018.

Flippin submitted a preliminary timeline for planned improvements to the facility and collection system with a final compliance date of February 2021 and a request to terminate the current construction permit.

Flippin submitted a Memorandum of Agreement (“MOA”) between the Arkansas Natural Resources Commission and Flippin setting forth project funding, along with a planning and design schedule for wastewater improvements. The MOA cited a final compliance date of October 1st.

DEQ is stated to have conducted a compliance assistance inspection on February 28, 2020, at the facility. The inspection report noted that Flippin was participating in the U.S. Environmental Protection Agency (“EPA”) Circuit Rider Assistance Program, including the federal agency assistance with development of a compliance plan. EPA submitted the initial draft of Flippin’s compliance plan developed under such program on April 22, 2020.

DEQ is stated to have conducted a routine compliance evaluation inspection of the facility on August 18, 2020. Such inspection is stated to documented the following violations:

- Effluent violations were reported during the monitoring periods April 2019 through November 2019
- Secondary flowmeter had not been calibrated by a qualified technician since 2010
- Failure to submit non-compliance reports (NCRs) for the effluent violations reported in 2019

DEQ is stated to have sent an email requesting that Flippin submit the missing noncompliance reports for the following monitoring periods:

1. 2018: May; June; September; December;
2. 2019: February; March; April; June; July; and September

Flippin subsequently stated it was awaiting approval from DEQ for the State Construction Permit and that the noncompliance reports would be submitted. An update was supplied on March 31st regarding the status of improvement projects at the facility.

DEQ requested an updated Corrective Action Plan ("CAP") on May 17th, which was submitted on May 19th. It conducted a review of Sanitary Sewer Overflows ("SSOs") reported by Flippin in accordance with the permit for the period of April 1, 2018 through April 30, 2021. Sixty-eight SSOs were reported.

A DEQ review of certified Discharge Monitoring Reports submitted by Flippin was conducted by the agency on July 29th and is stated to have indicated the following violations:

1. Eighty-four (84) violations of Ammonia Nitrogen
2. Thirty (30) violations of Carbonaceous Biochemical Oxygen Demand;
3. Two (2) violations of Total Suspended Solids; and
4. One (1) violation of Fecal Coliform Bacteria.

The CAO requires Flippin to immediately comply with the updated CAP dated May 19th with a final compliance date of November 30, 2022. The updated CAP, milestone schedule, and final compliance date shall be fully enforceable as terms of the CAO.

Flippin is required to submit a certification of compliance from an Arkansas Professional Engineer by December 31, 2022, stating that the corrective actions listed in the revised CAP have been completed and that Flippin is in compliance with the permit. Quarterly progress reports are required to be submitted.

A civil penalty of \$3,400 is assessed which is conditionally suspended if Flippin fully complies with the CAO.

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