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Wastewater Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality and U.S. Army Corps of Engineers Enter into Consent Administrative Order

03/02/2022

The Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) and the United States Army Corps of Engineers (Memphis District) (“Corps”) entered into a January 24th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit. See LIS No. 22-008.

The CAO provides that the Corps operates a sanitary wastewater treatment facility (“Facility”) in Lee County, Arkansas.

The Facility is associated with the W.G. Huxtable Pumping Plant. It discharges treated wastewater to the St. Francis River. Such discharge is authorized pursuant to an NPDES permit.

DEQ is stated to have conducted a reconnaissance inspection of the Facility on December 3, 2021. The inspection documented the following alleged violations:

1. The Corps is discharging process water from oil-water separators into the treatment lagoon. The current Permit does not authorize Respondent to use oil-water separators as a source to discharge process water and wastewater into the lagoon.
2. The lagoon was functioning as a single cell lagoon, rather than a two cell lagoon. The levee in the lagoon, intended to create the two separate cells, was six feet under water. Failing to maintain the lagoon properly is a violation of Part III, Section B, Condition 1.A of the Permit and therefore is a violation of Ark. Code Ann. § 8-4-217(a)(3).

DEQ provided the Corps the inspection results to which a response was submitted. Further, the Corps contracted to have wastewater pumped from the lagoon to restore the two-cell operation of the Facility. Such work (according to the Corps’ contract) was to be completed on or before December 11, 2021. However, the Corps is stated to have subsequently modified the wastewater removal contract extending the completion date to January 28, 2022.

The CAO requires that the Corps submit to DEQ for review and approval on or before February 28th a memorandum notification signed by an Arkansas licensed Professional Engineer. The notification is required to state what methods were used to correct the violations listed in the Findings of Fact

Paragraph 11.b. Further, it is required to identify what actions will be taken to prevent future violations, and the date of completion of the corrective actions.

A certification of compliance is required to be submitted by an Arkansas Professional Engineer on or before February 28th stating the corrective actions have been completed and that the Facility is in compliance with the NPDES permit.

Also, the Corps agrees to restore the two-cell operation of the Facility and complete other corrective actions necessary to achieve compliance with the NPDES permit by February 28th.

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