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SSO Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality and City of Hot Springs Enter into Consent Administrative Order

03/03/2022

The Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) and the City of Hot Springs entered into a January 24th Consent Administrative Order (“CAO”) addressing alleged violations of the Clean Water Act. See LIS No. 22-007.

The CAO provides that Hot Springs operates a major municipal wastewater treatment facility (“Regional Plant”) in Garland County, Arkansas.

Hot Springs is stated to discharge treated wastewater from the Regional Plant to Lake Catherine. Lake Catherine is an impoundment of the Ouachita River. Hot Springs is regulated pursuant to an NPDES permit.

Hot Springs operates a collection system (“System”) that routes wastewater to its Regional Plant for treatment.

The CAO provides that when the manholes of the referenced System overflow, Hot Springs discharges untreated wastewater to Gulpha Creek and subsequently to Spencer Bay of Lake Catherine.

DEQ is stated to have received complaints of recurring Sanitary Sewer Overflows (“SSOs”) from the System along Gulpha Creek from January 1, 2018, through July 31, 2021.

DEQ is stated to have conducted a review of the SSOs reported by Hot Springs for the previously referenced period. Hot Springs is stated to have reported 140 SSOs that entered Gulpha Creek totaling approximately 4,000,000 gallons. It is permitted to discharge treated municipal wastewater from its facility as opposed to untreated wastewater from its collection system.

DEQ is stated to have sent a letter to Hot Springs on July 2, 2021, requesting it:

1. Perform a Water Quality Assessment (WQA) in Gulpha Creek upstream and downstream of manhole #1750, and at the location where the overflow from manhole #1750 enters Gulpha Creek. The WQA should be performed after each overflow occurring from the manhole #1750 and within twelve (12) hours of when the overflow ceases. The results should be submitted to DEQ.

2. Submit an interim operating plan to include measures to stop the overflows occurring from manhole #1750. The plan should be submitted to DEQ by July 15, 2021.
3. Submit a revised timeline for the repair and remediation of the collection system line that is connected to manhole #1750 by August 1, 2021, making the repairs of this line a priority.
4. Contact DEQ to schedule a meeting to discuss the proposed timeline submitted on June 7, 2021.

Pursuant to a meeting with DEQ, Hot Springs submitted an extension request to submit a Water Quality Assessment (“WQA”) plan, Interim Operating Plan, and revised timeline by August 16, 2021. The request was granted.

DEQ sent a letter to Hot Springs on July 20, 2021, requesting:

1. Upon discovery of any SSO at manhole #1750 or any other manhole or pump station that discharges into Gulpha Creek, Respondent shall immediately sample the unpermitted discharge before confluence with the receiving stream for Fecal Coliform Bacteria and E. coli. Respondent shall submit the results and supporting information to DEQ within three (3) days of the event sampled.
2. Respondent shall submit a Communication Plan by July 23, 2021, that establishes a method to be used to notify the public of the water quality issues in Gulpha Creek and Spencer Bay of Lake Catherine, and provide a schedule for keeping the public informed about improvements or degradation of water quality in the water bodies mentioned above.
3. Respondent shall submit an Interim Plan, by July 23, 2021, that describes the operational and best management practices that Respondent will immediately implement to mitigate the impact of the continued SSOs.

Hot Springs submitted the Communication Plan and Bacteria Sampling Plan on July 23, 2021. DEQ provided suggestions to which Hot Springs responded.

The CAO requires that Hot Springs submit the WQAs to DEQ for review within three calendar days of the completion of the assessment (but no later than 10 calendar days following each overflow occurrence).

The WQAs are required to include:

- Analysis of pH
- Dissolved Oxygen
- Conductivity
- Temperature
- Turbidity
- Total Dissolved Solids
- Total Suspended Solids
- Alkalinity
- E. coli
- Chloride
- Sulfate
- Carbonaceous Biochemical Oxygen Demand-5 day,
- Ammonia as Nitrogen
- Nitrate+Nitrite as Nitrogen
- Kjeldahl Nitrogen as Nitrogen
- Ortho-phosphorus as phosphorus
- Total Phosphorus as phosphorus, and
- Chlorophyll a

Hot Springs is required to immediately implement the updated standard operating procedures contained in its August 16, 2021 response. Further, the City is required to immediately implement the Communication Plan dated July 23, 2021.

Hot Springs shall upon approval by DEQ comply with the terms, timeline, and final compliance date contained in the revised timeline for the repair and remediation of the collection system line along Gulpha Creek. In addition, Hot Springs is required to submit monthly progress reports which include certain specified information.

A civil penalty of \$64,000 is assessed of which \$51,200 is conditionally suspended if Hot Springs fully complies with the CAO.

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