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

06/30/2022

The Arkansas Department of Energy & Environment - Division of Environmental Quality ("DEQ") and the Town of Dyess, Arkansas ("Dyess"), entered into a March 10th Consent Administrative Order ("CAO") addressing alleged violations of a Clean Water Act National Pollution Discharge Elimination System ("NPDES") permit. See LIS No. 22-028.

The CAO provides that Dyess operates a municipal wastewater treatment facility ("Facility") located in Mississippi County, Arkansas.

The Facility is stated to discharge treated wastewater to the Tyronza River which eventually flows into the St. Francis River. Such discharge is regulated pursuant to an NPDES permit.

DEQ is stated to have sent Dyess a letter on July 10, 2018, requesting a Corrective Action Plan ("CAP") to address violations of NPDES permit limitations from May 2015 through May 2018. Dyess is stated to have not submitted the requested CAP to DEQ.

DEQ is stated to have sent Dyess an additional letter requesting a CAP on March 7, 2019, to address violations of NPDES permit limits from May 2018 through March 2019. A milestone schedule with a final compliance date and certification by an Arkansas Professional Engineer was requested. The CAP was submitted to DEQ on March 28, 2019, with a compliance date of May 1, 2019.

DEQ notified Dyess that the CAP was adequate and requested quarterly progress reports. Further, DEQ on September 20, 2019, sent Dyess a request for a revised CAP to address NPDES permit limit violations from January 2018 through August 2019. The CAP was also required to have a milestone schedule along with a final compliance date no later than October 31, 2020.

The United States Environmental Protection Agency ("EPA") submitted an initial draft on May 15, 2020, of Dyess' compliance plan developed pursuant to the federal agency's Circuit Rider Assistance Program. An update to this document and the corrective actions taken place to achieve final compliance was submitted on June 9, 2021.

On September 20, 2021, DEQ is stated to have conducted a review of certified Discharge Monitoring Reports (“DMRs”) submitted by Dyess. The review is stated to have indicated the following violations of permitted effluent discharge limits:

- Eighteen (18) violations of Total Suspended Solids;
- Four (4) violations of Fecal Coliform Bacteria;
- Three (3) violations of Carbonaceous Biochemical Oxygen Demand; and
- One (1) violation of pH.

DEQ’s review is also stated to have indicated that Dyess reported a flow greater than their permitted design flow of 0.06 million gallons per day (“MGD”) 85 times during the May 1, 2015, through August 31, 2021, review period.

The CAO requires within 30 calendar days of its effective date that Dyess submit to DEQ for review and approval a comprehensive revised CAP developed by an Arkansas Professional Engineer which must to include at a minimum the methods and best available technologies that will be used to correct the relevant violations and prevent future violations. A reasonable milestone schedule is also required.

The revised CAP and milestone schedule will be incorporated in the CAO once approved by DEQ. Quarterly progress reports are also required to be submitted.

The CAO also requires that within 90 calendar days of its effective date that Dyess submit to DEQ for review and approval, a comprehensive Sanitary Sewer Flow Monitoring and Infiltration and Inflow Study (“Study”) developed by an Arkansas Professional Engineer. The Study is required to include at a minimum:

- Baseline for sanitary sewer flows
- Rainfall monitoring
- Estimate of available sewer capacity
- Identification of sources of infiltration and inflow
- Estimation of infiltration and inflow
- Plan and milestone schedule for reducing infiltration and inflow with a date of final compliance

The Study, once approved, is incorporated into the CAO.

A civil penalty of \$4,800 is assessed which is conditionally suspended if Dyess fully complies with the CAO.

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