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Wastewater Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality and Crawford County Wastewater Treatment Facility Enter into Consent Administrative Order

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The Arkansas Department of Energy & Environment - Division of Environmental Quality ("DEQ") and Concord Water and Sewer Public Facilities Board ("Concord") entered into an August 8th Consent Administrative Order ("CAO") addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System ("NPDES") permit. See LIS No. 22-086.

The CAO provides that Concord operates a minor municipal wastewater treatment facility ("Facility") in Crawford County, Arkansas.

The Facility is stated to discharge treated wastewater to an unnamed tributary of Flat Rock Creek which eventually flows to the Arkansas River. The discharge is authorized pursuant to an NPDES permit.

DEQ is stated to have received a complaint of a strong smell of raw sewage on August 11, 2021, emanating from Flat Rock Creek and the presence of dead fish in and near the creek. It contacted Concord and asked that they investigate the situation and report back findings. Concord subsequently notified DEQ that the pollution was being discharged from the Facility and such discharge had ceased and corrective actions initiated.

DEC is stated to have conducted a compliance evaluation inspection of the Facility on August 12, 2021, which identified the following violations:

- Influent and effluent samples have not been taken to ensure the 30-day average percent removal for Carbonaceous Biochemical Oxygen Demand and Total Suspended Solids is at least eighty-five percent (85%)
- On August 11, 2021, pollutants were introduced to the treatment plant that caused Pass Through or Interference to the facility operations
- The pretreatment program has not been developed. The required activities specified in the schedule of compliance have not been completed
- Certain operation and maintenance violations observed

- Additional monitoring is not being reported on the corresponding Discharge Monitoring Reports (DMRs)
- Duplicate measurements are not recorded for field parameters (Dissolved Oxygen, pH, and Total Residual Chlorine)
- Noncompliance reports (NCRs) have not been submitted when effluent does not meet permitted discharge limitations

The CAO provides that during the August 12th DEQ inspection the following was observed at the site of the fish kill:

1. The water downstream was black with very low visibility;
2. There was an odor downstream that smelled of sewer or dead fish;
3. Dissolved oxygen readings taken downstream were very low; and
4. The property owner dammed the creek. There was no flow downstream of the dam, but a pool of brown turbid water was found near the downstream-side of the dam.

The Arkansas Game and Fish Commission ("AG&FC) is stated to have conducted a Fish Kill Survey for the affected area of Flat Rock Creek on August 11th and 12th of 2021. It is stated to have identified 5,517 fish that were killed. As a result, the CAO indicates that the unauthorized bypass of partially or untreated wastewater and resulting pollution of waters of the state violated certain Arkansas statutes. AG&FC ultimately indicated the number of fish killed were 5,490 with a monetary value of \$4,193.43.

Concord notified DEQ on September 1, 2021, that discharge from Outfall 001 had resumed and laboratory analysis of the discharge sampling results were being conducted. It is stated to have submitted a weekly progress report on September 7, 2021, that included discharge samples from permitted Outfall 001 which indicated it was in compliance with Part 1, Section A of the NPDES permit.

Concord provided DEQ correspondence on September 10, 2021, indicating the following repairs had been made since the prior inspection:

1. The curtain that separates the influent from the aeration basin from the inner part of tank where settling occurs prior to going over the v-notch weir was replaced;
2. The skimmer arm from clarifier #2 was replaced;
3. The rake from clarifier# 2 was adjusted;
4. The floating aerator was re-anchored; and
5. The brush rotor was put back in service.

DEQ conducted a review of the certified Discharge Monitoring Reports ("DMRs") on October 25, 2021, which is stated to have indicated the following effluent discharge limit violations:

1. Sixteen (16) violations of Carbonaceous Biochemical Oxygen Demand;
2. Eleven (11) violations of Total Suspended Solids; and
3. Three (3) violations of Ammonia Nitrogen.

The review of the DMRs is also stated to have indicated that the Concord Facility exceeded the design flow for 27 of the 36 monitoring periods reviewed.

DEQ sent a letter on October 25, 2021, to Concord requesting information which included:

- Corrective Action Plan ("CAP") to address discharge limit violations, which would include a milestone schedule and final date of compliance along with certification by an Arkansas Professional Engineer

- Design Flow/Inflow and Infiltration Study to address exceedances of the design flow
- Certification by an Arkansas Professional Engineer that the current wastewater treatment system has been repaired and is operating as designed

DEQ also conducted, on November 30, 2021, a review of the reported Sanitary Sewer Overflows (“SSOs”) and treatment bypasses during the period from August 1, 2018, through November 30, 2021. The review is stated to have indicated the following violations:

1. Respondent reported thirty (30) unpermitted discharges from lift stations and manholes totaling more than 5000 gallons.
2. Respondent reported nine (9) unauthorized bypasses from permitted outfall 001.

Concord submitted a CAP with the required elements on December 30, 2021. It included a Design Flow/Inflow and Infiltration Study. A final compliance date of May 31, 2028, was proposed. The submittals were approved by DEQ on February 8, 2022. However, DEQ and Concord subsequently met on June 15th and Concord indicated concerns had arisen with the CAP and Inflow and Infiltration Study. Consequently, Concord was stated to be soliciting bids from professional engineering firms to develop and submit a revised CAP.

The CAO requires within 60 calendar days of its effective date submission for review and approval a revised comprehensive CAP developed by an Arkansas Professional Engineer which would include methods and best available technologies to be used to correct the violations listed in Findings of Fact and prevent future violations and include a reasonable milestone schedule. A final compliance date no later than December 31, 2025, is required. Further, upon approval by DEQ, such terms, etc., shall be considered components of the CAO.

An interim operating plan is required to be submitted within 60 calendar days of the effective date of the CAO which describes in detail the operation measures that will be used to maximize removal efficiency of all pollutants covered by the NPDES permit. The interim operating plan will be implemented immediately upon its approval by DEQ.

The CAO also requires within 12 months of its effective date that Concord develop a Sewer System Evaluation Study (“SSES”) for its sanitary sewer collection system which would be certified by an Arkansas Professional Engineer. The CAO lists a number of required elements of the SSES (which includes a SSO plan).

Quarterly progress reports are required in regard to certain required actions. In addition, further supplemental monitoring must be undertaken and within 30 calendar days of the effective date of the CAO Concord must submit influent and effluent sample monitoring results demonstrating that the 30-day average percent removal for Carbonaceous Biochemical Oxygen Demand and Total Suspended Solids is at least 85%.

For damages related to the fish kill, Concord agrees to pay AG&FC \$4,193.43.

A civil penalty of \$20,050 is assessed of which \$10,000 is conditionally suspended if Concord fully complies with the terms of the CAO.

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