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

10/31/2022

The Arkansas Department of Energy & Environment - Division of Environmental Quality ("DEQ") and City of Rockport, Arkansas, ("Rockport") entered into an October 10th Consent Administrative Order ("CAO") addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System ("NPDES") permit. See LIS No. 22-103.

The CAO provides that Rockport operates a municipal wastewater treatment facility ("Facility") in Hot Springs County, Arkansas.

The Facility is stated to discharge treated wastewater to an unnamed tributary of Francois Creek which eventually flows into the Ouachita River.

Such discharge is regulated pursuant to an NPDES permit.

DEQ is stated to have conducted a routine compliance evaluation inspection and a collection system evaluation of the Facility on July 9, 2021. The inspection and collection system evaluation are stated to have indicated the following alleged violations:

- Forty-two effluent limitation violations from October 1, 2018 to September 30, 2021
- Failure to employ a Class II licensed wastewater operator
- Failure to operate and maintain the facility properly
- Failure to ensure that both calibration and maintenance activities are conducted on all monitoring and analytical instrumentation intervals frequent enough to ensure accuracy of measurements
- Failure to provide DEQ written certification that the Facility has been constructed in accordance with the approved plans and specifications

DEQ is stated to have conducted a review of certified Discharge Monitoring Reports ("DRMs") submitted by Rockport on July 28, 2021. The review is stated to have indicated the following violations of the permitted effluent discharge limits:

- Eighteen (18) violations of Ammonia Nitrogen;
- Twelve (12) violations of Carbonaceous Biochemical Oxygen Demand;
- Nine (9) violations of Fecal Coliform Bacteria:

- Four (4) violations of Total Suspended Solids;
- Three (3) violations of Dissolved Oxygen; and
- One (1) violation of pH.

Such review is also stated to have indicated that Rockport reported flow data greater than the Facility's permitted design flow 23 months out of the 36-month review period. In addition, Rockport is stated to have failed to submit noncompliance reports for the violations during each monitoring period.

DEQ is stated to have sent on July 28, 2021, a letter to Rockport requesting a Corrective Action Plan ("CAP") to be submitted by August 31, 2021, to address the effluent violations. A meeting at DEQ was also requested.

Rockport subsequently requested an extension to submit a written response addressing the violations. An extension was granted to September 30, 2021.

NCRs for the monitoring periods beginning July 2019 through July 2021 were submitted but they are stated to have failed to contain adequate information regarding the cause of the violations, plan to correct violations, or estimated time to correct violations.

Rockport submitted a CAP on October 1, 2021, with a final compliance date of July 2022. DEQ subsequently deemed the CAP adequate on October 4, 2021. Quarterly progress reports were requested.

Rockport submitted a Notice of Completion of Construction on October 15, 2021.

DEQ and Rockport met on November 29, 2021, to discuss the CAP and repeated violations. Rockport agreed to submit a revised CAP and milestone schedule to DEQ by December 10, 2021. However, DEQ is stated to have not received the revised CAP and milestone schedule. The State Construction Permit previously issued was terminated.

The CAO requires that on or before its effective date that Rockport submit documentation demonstrating the effluent flow monitoring device has been calibrated and is operating properly. Further, within 30 calendar days of the effective date of the CAO Rockport is required to submit to DEQ for review and approval a comprehensive revised CAP developed by an Arkansas Professional Engineer to include:

. . . at minimum the methods and best available technologies that will be used to correct the violations listed in Findings of Fact Paragraphs 10, 12, 14, and 15 and prevent future violations.

A reasonable milestone schedule must be included. In addition, quarterly progress reports are required.

Rockport is also required to submit to DEQ a written response to the violations documented in the July 9, 2021, inspections on or before the effective date of the CAO and within 60 calendar days of the effective date of the CAO submit to DEQ documentation demonstrating that the operator has obtained a Class II wastewater license. Within 90 calendar days of the effective date of the CAO, Rockport is required to submit to DEQ for review and approval a comprehensive Sanitary Sewer Flow Monitoring and Infiltration and Inflow Study developed by an Arkansas Professional Engineer which shall include at a minimum:

. . . a baseline for sanitary sewer flows, rainfall monitoring, an estimate of available sewer capacity, identification of sources of 1/1, an estimation of 1/1, and a plan and milestone schedule for reducing I/I with a date of final compliance.

The required milestone schedule and final compliance date will be fully enforceable as terms of the CAO.

A civil penalty of \$6,600 is assessed of which \$4,600 is conditionally suspended if Rockport fully complies with the CAO.

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