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

12/13/2022

The Arkansas Department of Energy & Environment - Division of Environmental Quality ("DEQ") and the City of Bearden, Arkansas ("Bearden") entered into a November 3rd Consent Administrative Order ("CAO") addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System ("NPDES") permit. See LIS No. 22-110.

The CAO provides that Bearden operates a municipal wastewater treatment facility ("Facility") in Ouachita County, Arkansas.

The Facility discharges treated municipal wastewater to Two Bayou (east), which eventually flows into the Ouachita River. Such discharge is regulated pursuant to an NPDES permit.

Part III, Section D, Condition 10 of the NPDES permit requires that Bearden submit a complete permit renewal application at least 180 days prior to the expiration date of the permit if the activity regulated is to continue after the expiration date. Bearden has stated it intends to operate the Facility beyond the expiration date.

DEQ is stated to have received a permit renewal application on April 26th.

DEQ notified Bearden that its permit renewal application was incomplete with the following deficiencies:

- a. DEQ Form 1
 - i. Section A.10 requires submittal of a location map.
 - ii. Section B.1 requires submittal of a topographic map showing a minimum of one mile around the property boundary of the Facility. The outfall location must also be marked on this map.
 - iii. Section B.2 requires a description of sample collection methods.
 - iv. Section B.2 requires a description of flow measurement methods.
 - v. Section B.2 requires submittal of a process flow diagram of the wastewater treatment plant.
 - vi. Sections B.3, B.4, and B.5 must be completed.
 - vii. Section B.3 requires submittal of a FEMA flood plain map.

b. EPA Form 2A must be submitted.

An updated permit renewal application was received. However, it was deemed incomplete on May 5th with the following deficiencies:

- a. DEQ Form 1, Question B.4 must be completed.
- b. The old version of EPA Form 2A was received. EPA and 40 C.F.R. Part 122 require the use of the most up-to-date form. EPA Form 2A is available on the Division's website.

An updated permit renewal application was submitted on June 30th which was deemed administratively complete.

Because the permit renewal application was not received by May 4th, this is stated to constitute a violation of the permit.

DEQ conducted a review of certified Discharge Monitoring Reports submitted by Bearden in accordance with the permit. The review is stated to have indicated that Bearden reported certain violations of the permitted effluent discharge limits which included:

- a. Four (4) violations of pH; and
- b. Two (2) violations of Fecal Coliform Bacteria.

The CAO requires that Bearden comply with the existing NPDES permit until either the effective date of the permit renewal or the effective date of the permit termination. Further, Bearden is required to, on or before January 31, 2023, submit effluent testing for various parameters specified in Paragraph 3 of the Order and Agreement of the CAO. In addition, Bearden is required to immediately comply with all permitted effluent limits unless a Corrective Action Plan ("CAP") is submitted and approved by DEQ as provided in Paragraph 4. In such case, Bearden is required to comply with all permitted effluent limits no later than December 31, 2023.

The CAO provides that if Bearden is unable to immediately comply with all permitted effluent limits, within 30 calendar days of the effective date of the CAO, Bearden is required to submit to DEQ for review and approval a CAP developed by an Arkansas Professional Engineer that will include, at a minimum, the methods and best available technologies that will be used to correct the alleged violations and prevent future violations. A milestone schedule must be included. Upon review and approval by DEQ, Bearden is required to comply with the terms, milestone schedule, and final compliance date contained in the approved CAP.

The CAO also provides that if a CPA is submitted pursuant to Paragraph 4, Bearden shall submit quarterly progress reports detailing the progress that has been made toward compliance with the final permitted effluent limits.

A civil penalty of \$4,200 is assessed of which \$3,700 is conditionally suspended if Bearden fully complies with the CAO.

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