



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Water Authority Dixon County/Trace Creek: Harpeth Conservancy Files Petition for Appeal of Tennessee Department of Environment and Conservation Commissioner Determination

03/20/2023

The Southern Environmental Law Center filed on behalf of Harpeth Conservancy (“Petitioner”) a March 9th Petition for Appeal of the Tennessee Department of Environment and Conservation (“TDEC”) (“Petition”) Commissioner Determination.

The Petition was filed before the Tennessee Board of Water Quality, Oil & Gas and addresses a request for enforcement that Harpeth Conservancy submitted to TDEC on November 17, 2022, regarding the Dixon County (“WADC”) Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit discharge.

The Petition states that WADC holds an NPDES permit authorizing it to treat domestic wastewater from its White Bluff wastewater treatment plant into Trace Creek. Trace Creek is stated to be a tributary of the Harpeth River.

The Petitioner submitted the previously referenced complaint to TDEC pursuant to Section 118(a) of the Tennessee Water Quality Control Act. The complaint is stated to have informed TDEC of a large loom of sewage-loving bacteria algae directly below WADC’s White Bluff wastewater treatment plant’s outfall. The bloom is stated to have extended into Trace Creek.

Petitioner’s complaint is stated to have alleged that the bacteria and algae bloom violated the narrative effluent limits in the White Bluff’s NPDES permit as well as Tennessee’s Antidegradation Statement. The Petition also alleged that the bloom interferes with Trace Creek’s designated uses. Such uses are stated to be include fish and aquatic life and recreation. Consequently, the Petitioner alleged that WADC violated the Tennessee Water Quality Control Act of the Clean Water Act.

Petitioner is stated to have requested that TDEC investigate the condition of pollution in Trace Creek and modify the NPDES permit to impose numeric limits for nitrogen and phosphorus discharge. A moratorium was also requested on connecting any additional sources of waste to the White Bluff wastewater treatment plant until TDEC modifies the permit and WADC corrects the problem.

TDEC is stated to have provided Petitioner a determination on February 8th, finding that WADC complied with the terms of its NPDES permits and no enforcement action would be taken. The state agency is stated to have indicated that it did not observe a large bloom of bacteria in the photographs provided by Petitioner. Further, TDEC staff is stated to have indicated that they did not observe distinctly visible solids, skum, foam, oil, or objectional color upon visiting the site.

TDEC is stated to have determined that WADC did not violate the terms of the White Bluff NPDES permit because:

. . . the conditions depicted in the photographs provided by Petitioner occurs within the zone immediately surrounding the outfall and was therefore exempted from complying with applicable permit terms.

Consequently, TDEC is requested to impose numeric effluent limits for nitrogen and phosphorus in the permit or issue a moratorium on additional connections to the White Bluff wastewater treatment plant.

Petitioner alleges that TDEC's determination is inadequate to enforce the terms of the White Bluff NPDES permit and comply with applicable state and federal law. As a result, they have filed the referenced appeal.

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