



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

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

12/15/2023

The Arkansas Department of Energy & Environment - Division of Environmental Quality ("DEQ") and the City of Nashville, Arkansas, ("Nashville") entered into October 16th Consent Administrative Order ("CAO") addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System ("NPDES") permit. See LIS No. 23-080.

Nashville is stated to operate a municipal wastewater treatment facility ("Facility") in Howard County, Arkansas.

The Facility is stated to discharge treated wastewater to Mine Creek which eventually flows to the Red River. Such discharge is regulated pursuant to an NPDES permit.

DEQ is stated to have conducted a routine compliance evaluation inspection of the Facility on December 30, 2020. The inspection allegedly noted the following violation:

- Sludge build-up in treatment Pond 2

DEQ is stated to have conducted a review of the certified Discharge Monitoring Reports ("DMRs") from the Facility on January 31st. The review is stated to have listed the following violations:

- a) Twenty violations of Ammonia Nitrogen;
- b) Four violations of Total Suspended Solids;
- c) Two violations of Carbonaceous Biochemical Oxygen Demand; and
- d) Two violations of Whole Effluent Toxicity – P. promelas

The review of the DMRs is also stated to have indicated that Nashville reported NODI Code P, to denote Laboratory Error or Invalid Test on outfall 001-B for certain specified period end dates.

DEQ conducted a review of the Sanitary Sewer Overflows ("SSOs") on January 31st reported by Nashville. Such review is stated to have indicated that 54 SSOs were reported. Each SSO is stated to have constituted an unpermitted discharge.

On August 16th DEQ conducted a review of the certified DMRs and identified the following violations:

i. For three occurrences of Nitrate + Nitrate; and

ii. For three occurrences of Total Phosphorus

On August 16th DEQ also conducted a review of the SSOs which indicated that Nashville reported 12 totaling 4,078,820 gallons. Nashville is not permitted to discharge untreated wastewater from its collection system.

The CAO requires that within 30 calendar days of its effective date that Nashville submit to DEQ for review and approval a Comprehensive Corrective Action Plan (“CAP”) developed by an Arkansas licensed Professional Engineer. The CAP is required to include, at a minimum, the methods and best available technologies that will be used to correct the alleged violations. It also is required to include a reasonable milestone schedule with a final compliance date of no later than December 31, 2026. Further, certain quarterly reporting requirements are mandated.

Within 12 months of the effective date of the CAO, Nashville is also required to develop and submit to DEQ for review and approval a Sewer System Evaluation Study for its sanitary sewer collection system. This study must be certified by an Arkansas Professional Engineer.

A civil penalty of \$8,600 is assessed of which \$5,600 is conditionally suspended if Nashville fully complies with the CAO.

A copy of the CAO is attached [hereto](#).