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

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and City of McRae, Arkansas entered into a June 4th Consent Administrative Order (“CAO”) addressing alleged violations of a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) Permit. See LIS No. 24-102.

The CAO provides that McRae operates a minor municipal wastewater treatment facility (“Facility”) in White County, Arkansas.

The Facility is stated to discharge treated wastewater to Dry Branch which eventually flows into the White River. Such discharge is regulated pursuant to an NPDES Permit.

Part III, Section D, Condition 10 of the NPDES Permit requires McRae to submit a complete Permit Renewal Application at least 180 days prior to the expiration date of the Permit if the regulated activity is to continue after the expiration date. McRae is stated to intend to operate the Facility beyond the expiration date.

McRae is stated to have submitted the Permit Renewal Application on March 28th. However, DEQ notified McRae that the application was incomplete. Additional information was submitted by McRae, and it was deemed complete on April 1st.

Because the Permit Renewal Application was not received by December 3, 2023, this is stated to have constituted a violation of the NPDES Permit.

The CAO also provides that McRae has failed to pay an invoice which is stated to total \$1,096.00, violating the NPDES Permit.

DEQ is stated to have conducted a review of Certified Discharge Monitoring Reports (“DMRs”) submitted by McRae in April. The review is stated to have indicated the following violations:

- Ten (10) violations of Fecal Coliform Bacteria;
- Three (3) violations of Total Suspended Solids;

- Two (2) violations of Ammonia Nitrogen; and
- One (1) violation of Carbonaceous Biochemical Oxygen Demand.

The review of the DMRs is stated to have also indicated that there was a failure to submit them by the due date for the following twenty-two monitoring periods:

- 2021: March, June, August, September, October, November.
- 2022: January, April, May, July, August, September, October, November, December.
- 2023: January, February, May, August, November.
- 2024: January, February.

The CAO requires that McRae comply with the existing NPDES Permit until the effective date of the NPDES Permit Renewal.

McRae is also required within thirty calendar days of the effective date of the CAO to submit to DEQ for review and approval a comprehensive Corrective Action Plan ("CAP") developed by an Arkansas Professional Engineer, which will include at a minimum, the methods and best available technologies to correct the identified alleged violations and prevent future violations. A reasonable milestone schedule and a date of final compliance no later than December 21, 2026, is required. Quarterly progress much also be submitted.

McRae is also required to submit all DMRs in accordance with the relevant sections of the Permit, and also pay the outstanding invoice.

A civil penalty of \$4,800.00 is assessed, of which \$3,800.00 is conditionally suspended if McRae fully complies with the CAO.

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