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

07/19/2024

The Arkansas Department of Energy & Environment – Division of Environmental Quality (“DEQ”) and City of Malvern, Arkansas, (“Malvern”) entered into a March 1st Consent Administrative Order (“CAO”) addressed alleged violations of a Clean Water Act National Pollutant Discharge Elimination System (“NPDES”) permit. See LIS No. 24-045.

The CAO provides that Malvern operates a major municipal wastewater facility (“Facility”) in Hot Springs County, Arkansas.

The Facility is stated to discharge treated wastewater to the Ouachita River. Such discharge is regulated pursuant to an NPDES permit.

DEQ is stated to have conducted a review of the Sanitary Sewer Overflows (“SSOs”) and treatment bypasses reported by Malvern in accordance with the NPDES permit for the periods of February 28, 2018, through February 28, 2023. Such review is stated to have revealed the following:

- 112 SSOs were reported of which 74 reached waters of the state. Each SSO is stated to have constituted an unpermitted discharge, violating Part I of the NPDES permit.

DEQ sent Malvern an email requesting submission of a Corrective Action Plan (“CAP”) to address the ongoing SSOs and unpermitted discharges on September 30, 2022.

Malvern submitted a CAP to address the SSOs and unpermitted discharges on November 28, 2022, through flow monitoring and integrity evaluation of the collection system and development of a capital improvement plan and schedule of improvements.

DEQ advised Malvern on December 6, 2022, that the CAP was adequate and to submit quarterly progress reports.

Malvern submitted a CAP Progress Report to DEQ on January 13, 2023. DEQ responded in a February 22, 2023, letter requesting the following:

- Sampling for E. coli for each SSO event at specified manholes that discharges into Town and Chatman Creeks, or any tributaries thereto, along with analytical results and other information within three calendar days of sample collection.

- Sampling and monitoring for E. coli at the unnamed tributary to Town Creek at the Walco Road Bridge and Town Creek for each SSO event and submission of the analytical results and additional documents within three calendar days of sample collection.
- Submission of a Communication Plan to notify the public immediately, through a notification system and signage posted in the affected areas, of the water quality issues in Town and Chatman Creeks, and to provide updates to the public regarding improvements or decreases in water quality in those creeks.

Malvern submitted the Communication Plan and Bacteria Sampling Plan on March 3, 2023. DEQ conditionally approved the plan.

DEQ conducted a review of certified Discharge Monitoring Reports (“DMRs”) submitted by Malvern on June 21, 2023. The following violations are alleged to have been identified:

- One violations of Carbonaceous Biochemical Oxygen Demand

The review of the DMRs also indicated that adequate effluent analysis for the following monitoring period was not conducted:

- June 30, 2021
- September 30, 2021

Malvern is required to continue to implement the Bacteria Sampling and Communication Plan. Further, it is required to comply with the terms and milestone schedule contained in the SSO CAP as described in the CAO. In addition, on or before the effective date of the CAO Malvern is required to submit to DEQ for review and approval a plan and milestone schedule to eliminate the overflow pipe in the sanitary sewer manhole located at a specified stream. Certain actions must be taken until the overflow pipe is eliminated. In addition, quarterly progress reports are required.

Within six months of the effective date of the CAO, Malvern is required to submit to DEQ for review and approval the following:

- System Evaluation and Capacity Assurance Plan
- Capital Improvement Plan

These documents must be developed by an Arkansas Professional Engineer.

Progress reports must be submitted to DEQ detailing the actions taken to eliminate SSOs and achieve compliance with the NPDES permit within six months of the effective date of the CAO.

Once requirements of the CAO are completed, Malvern is required to submit to DEQ a Certification of Completion stamped by an Arkansas Professional Engineer.

A civil penalty of \$18,000 is assessed which is conditionally suspended if Malvern fully complies with the CAO.

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