



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES
Central Office – Tennessee Tower
312 Rosa L. Parks Ave, 11th Floor
Nashville, TN 37243
Statewide 1-888-891-8332

CERTIFIED MAIL:
RETURN RECEIPT REQUESTED

4/18/16

Mayor Jim Strickland
City Hall
125 N. Main St. Room 700
Memphis, TN 38103

Re: Notice of Violation
Memphis-TE Maxson STP South Plant
NPDES Permit Number: TN0020729
Sanitary Sewer Discharge into Cypress Creek and McKellar Lake
Memphis, Shelby County

Dear Mayor Strickland:

The Division of Water Resources (“Division”) appreciates the City of Memphis’ diligent efforts to end the 40-50 million gallon per day sewer overflow to Cypress Creek and McKellar Lake. The Division has been in regular contact with your staff throughout this event. Now that the discharge has been stopped, the Division is issuing this Notice of Violation to document the violations that have occurred and to communicate our expectations moving forward. This Notice of Violation also serves as a preliminary step toward appropriate future enforcement.

On Thursday, March 31, 2016, the Memphis Environmental Field Office (MEFO) received notification from the City of Memphis that the 96” interceptor line associated with the Memphis-TE Maxson STP South Plant had failed, causing untreated wastewater to discharge into Cypress Creek and McKellar Lake.

On April 1, 2016, the Division was informed by the City that due to the line failure approximately 40-50 million gallons of untreated wastewater was discharging into Cypress Creek and McKellar Lake per day. The City also explained that it would take several days to complete the temporary by-pass operation to stop the discharge. Since first being notified of the line failure, the Division recognizes that the City has worked tirelessly and remained focused on ensuring that the by-pass operation was installed and functioning as quickly as possible.

On April 7, 2016, the City notified the Division that the temporary by-pass operation was functioning around midnight on April 6, 2016, and that the discharge of untreated wastewater from the line failure had stopped. However, on April 7, 2016, around 1:30pm a representative from the Tennessee Wildlife Resources Agency discovered untreated wastewater discharging from a 60" abandoned sanitary line adjacent to the 96" line. The City investigated and confirmed a connection between the two lines had failed, allowing wastewater to continue to enter Cypress Creek and McKellar Lake.

On April 8, 2016, the City confirmed discharge from the 60" line had ceased and no further issues had been reported. However, on April 12, 2016, the City reported to the Division an issue that had occurred with the 96" plug during the night of April 11, 2016, allowing an additional 1.3 million gallons of untreated wastewater to enter Cypress Creek and McKellar Lake, but that the situation had been resolved and discharge had ceased.

Although final confirmation has not yet been received, based on the information provided to date, the Division estimates the total amount of untreated wastewater which entered waters of the state (Cypress Creek and McKellar Lake) to be over 350 million gallons.

Based on extremely high E. coli levels found within these waterbodies, the public marina was closed to recreational use on April 2, 2016, and the State issued a Contact Advisory on April 6, 2016. As of the date of this letter, these waterbodies remain closed for recreational use.

Please understand that the discharge of untreated wastewater from the collection system to waters of the state and causing a condition of pollution are serious violations of NPDES permit TN0020729 and the Tennessee Water Quality Control Act, Tenn. Code Ann § 69-3-101 et seq.

Required Actions:

- Communicate with the Division regarding ongoing repair, remediation, water quality sampling, and related issues on a daily basis until further notice. This communication should, at a minimum, be accomplished by email and be sent to the manager of the Division's Memphis Office, Joellyn Brazile (Joellyn.Brazile@tn.gov) and the manager of

the Division's Compliance and Enforcement Unit, Jessica Murphy (Jessica.Murphy@tn.gov), with a copy to Stephanie Durman in the Office of General Counsel (Stephanie.Durman@tn.gov).

- Maintain communications with the public regarding the contact advisory of McKellar Lake and the lower portion of Cypress Creek to discourage recreational use until the health threat is alleviated.
- Continue to remove and properly dispose of dead fish in the two areas on the sandy shores of Treasure Island where fish have accumulated, the inlet between Nonconnah Creek and Cypress Creek, and other areas as directed in writing.
- On or before May 2, 2016, submit a remediation plan to the Division for review. The remediation plan at a minimum should include how the City plans to:
 - reduce E. coli levels in the affected waterbodies to pre-impact conditions;
 - return dissolved oxygen levels to pre-impact conditions;
 - remove solids associated with the wastewater discharge that have accumulated on the bottom and banks of the affected waterbodies;
 - remove and dispose of the fish that have died due to this event; and
 - effectively communicate the health situation to the general public;
- On or before May 2, 2016, submit a corrective action plan (CAP) to permanently repair or replace the broken line, including measures to prevent future line breakage due to bank instability and identification of any proposed alterations to waters of the state as a result of corrective actions outlined in the plan.
- On or before May 2, 2016, submit a description of any alterations to waters of the state (i.e., Cypress Creek and associated wetlands) that were necessary to remedy the emergency situation.
- On or before July 15, 2016, survey the entire Memphis sewage collection system to identify any other location(s) where a line breakage due to erosion/bank instability is possible and a list of each such location, including the size of the affected pipe and the receiving waters.

The segment of Cypress Creek and McKellar Lake where the discharge occurred is impaired for low Dissolved Oxygen, E. coli and other pollutants. It is therefore imperative for the City to take appropriate measures to not cause additional pollution or to contribute to the existing impairment status.

Division staff will continue to coordinate with the City as long as needed, and will monitor the water quality situation closely until we deem the threat to human health and aquatic life to be over. Our data and observations will also be used to formulate appropriate future enforcement actions including, but not limited to, a natural resource damages assessment.

The Division appreciates your staff's immediate attention to matters that involve protecting the public health and waters of the state. If you have any questions with regard to this letter, please contact Joellyn Brazile at (901) 371-3025 or Joellyn.Brazile@tn.gov.

Sincerely,



Tisha Calabrese Benton
Director, Division of Water Resources

ec: TDEC/DWR/MEFO-file
TDEC/DWR/NCO-Enforcement and Compliance Unit
Bob Martineau – TDEC Commissioner
Shari Meghreblian – TDEC Deputy Commissioner
Joellyn Brazile – TDEC – DWR
Patrick Parker – TDEC-OGC
Stephanie Durman – TDEC-OGC
Doug McGowen – City of Memphis
Paul Patterson – City of Memphis
Robert Knecht – City of Memphis
Brad Ammons – Environmental Protection Agency