



EPA Enforcement Initiative

09.23.2015

EPA is currently pursuing six National Enforcement Initiatives. One of these initiatives is entitled, “Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation’s Waters.” Over the past three years, civil penalties in cases settled under this initiative have ranged from zero to more than \$400,000. Recently, however, Philadelphia’s municipal wastewater utility paid much more.

The Delaware County Regional Water Quality Control Authority (the “Authority”) owns and operates a Publicly Owned Treatment Works (POTW) and collection system for stormwater and wastewater from residential, commercial, and industrial sources in Philadelphia, Pennsylvania. EPA alleged the Authority violated Section 301 of the Clean Water Act (“CWA”) and the terms and conditions of its National Pollutant Discharge Elimination System permit by discharging untreated sewage from its collection system and failing to develop and implement a long-term control plan (LTCP) to control sewer overflows.

In a proposed Consent Decree lodged with the court on August 17, 2015, the Authority agreed to draft and implement a LTCP, with the goal of bringing all combined sewer overflow (“CSO”) discharge points into full compliance with the CWA within 20 years. To reach this goal, the Authority will develop and implement: 1) a Water Quality Model Plan for characterization of its service area and receiving waters; 2) a Public Participation Plan; 3) a Financial Capability Assessment; 4) a Post-Construction Monitoring Plan; and 5) revisions to its Collection System Operation and Maintenance Plan. The estimated total cost of these long-term planning, infrastructure replacement, and control measures is \$200 million. The Authority also agreed to pay a civil penalty of \$1.375 million, which is the highest civil penalty assessed under this enforcement initiative to date.

Federal guidance points POTWs like the Authority toward bond financing, loans and grants to fund these types of long-term improvement projects. Ultimately these costs will be reflected in increased user fees for residential, commercial, and industrial users. Industrial dischargers should also be aware that the Authority’s settlement and others like it could lead to stricter industrial pretreatment enforcement against POTWs which, in turn, could lead to stricter enforcement against them.

The proposed settlement is subject to a comment period which ends on September 21, 2015 and final court approval. A copy of the Consent Decree may be found [here](#).

80 Fed. Reg. 152 (August 21, 2015)

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