Message

From: Riley, Pamela [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C0EA86DA39FF44FA916385614FA5EE4F-RILEY, PAMELA]
Sent: 3/27/2020 5:36:26 PM
To: Davidson, Landon [landon.davidson@ncdenr.gov]
CC: jay.zimmerman@ncdenr.gov; Smith, Danny [danny.smith@ncdenr.gov]
Subject: RE: [External] Citizen Complaint - Hendersonville NC Sanitary Sewer Overflows

Good morning Landon,
I have a couple of follow up questions to your responses, please see below in red

Thanks,
Pamela Y. Riley, MPH
Riley.pamela@epa.gov
(404) 562-9419 Office
(404) 562-9439 Fax

From: Davidson, Landon <landon.davidson@ncdenr.gov>
Sent: Monday, March 9, 2020 12:53 PM
To: Riley, Pamela <Riley.Pamela@epa.gov>
Cc: jay.zimmerman@ncdenr.gov; Smith, Danny <danny.smith@ncdenr.gov>
Subject: RE: [External] Citizen Complaint - Hendersonville NC Sanitary Sewer Overflows

Ms. Riley,
Thank you for your patience in awaiting this response email to your email of February 26th. Please note that I've provided responses below to the three questions you put forth regarding the Hendersonville collection system and specifically the petition gather by Dr. Hiatt. I've included your original questions for reference followed by my response in italicized font.

Please answer the following questions:

1. Why was the petition rejected?

The petition was not rejected by DWR and remains under review currently in the Director's office of the Division of Water Resources. The status of the petition's review was communicated to Dr. Hiatt on February 24th. ***How long does this review process usually take?*** *The petition was received by DWR on February 24th, after the subject fast-track permit (Arcadia) was issued on February 20th.* ***Could you provide a copy of the permit?***

2. Have any enforcement actions been taken?

DWR has taken appropriate enforcement actions pursuant to the system's permit conditions, DWR guidance policies, NCGS 143-215.1, NCGS 143-215.6A and factors set forth in NCGS 143B-282.1(b). Civil penalties have been assessed against the permit holder. ***Could you provide a copy of the enforcement actions taken and the civil penalties assessed?***

3. Provide any documentation of correspondence for addressing this citizen

The interactions with Dr. Hiatt in which I am aware have been via phone call or email with three ARO staff including Dan Boss, Tim Heim and me. The topics of conversation have ranged from technical discussion regarding the collection system and wastewater plant to limited discussions regarding bacteria, permit compliance, permitting processes, etc. Please let me know if you would like an email search record to be performed and I will request it from our IT staff as I am not able to product those records in complete form. Please provide key search terms for your request.

I left you a voicemail on March 5th in reply to your voicemail message. Please note that on March 6th, I sent an email to Dr. Hiatt and Friends of the Oklawaha outlining the 3rd party appeal process for the subject permit. Could you please forward a copy of the email that was sent to Dr. Hiatt & Friends of the Oklawaha because I received a letter from him after this date?

Please feel free to call me to discuss any of these topics further.

Regards,
Landon

G. Landon Davidson, P.G.
Regional Supervisor – Asheville Regional Office
Water Quality Regional Operations Section
NCDEQ – Division of Water Resources

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NC DEQ permits handbook

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From: Riley, Pamela [mailto:Riley.Pamela@epa.gov]
Sent: Wednesday, February 26, 2020 1:03 PM
To: Hennessy, John <john.hennessy@ncdenr.gov>; Davidson, Landon <landon.davidson@ncdenr.gov>; Coco, Julie <julie.coco@ncdenr.gov>; Aiken, Stan E <stan.aiken@ncdenr.gov>
Subject: [External] Citizen Complaint - Hendersonville NC Sanitary Sewer Overflows

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Good afternoon all,
If I haven't introduced myself, my name is Pamela Riley and I have taken over the citizen complaint responsibilities from now retired Humberto Guzman. I provided my contact information below for your reference and I look forward to working with each of you.

The reason for my email to all of you collectively, I am trying to get a status update and gather information on the citizen complaint below from Mr. Hiatt in Henderson, NC, that was forwarded to North Carolina Department of Environmental Quality (DEQ) for a response.

Mr. Hiatt has provided the following additional information for a link that leads to a petition in which he states DEQ rejected the petition and is refusing to hold a public hearing.

The link below is for a Friends of the Oklawaha petition signed by 250 people asking the NC DEQ to take effective and immediate action to stop the on-going SSOs that are polluting residential areas, city and county parks and streams in the French Broad River basin from Hendersonville to Hot Springs. streets.

https://www.ipetitions.com/petition/untreated-sewage-discharges-to-the-french-broad

Please answer the following questions:

1) Why was the petition rejected?
2) Have any enforcement actions been taken?
3) Provide any documentation of correspondence for addressing this citizen

If I don't have the right people listed on this email to provide information in reference to this complaint, could you please forward me the correct contact information

Thanks,

Pamela Y. Riley, MPH
Environmental Scientist
Environmental Protection Agency, R4
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61 Forsyth Street, S.W.
Atlanta, Georgia 30303

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From: whiatt@morrisbb.net <whiatt@morrisbb.net>
Sent: Wednesday, January 29, 2020 3:55 PM
To: Riley, Pamela <Riley.Pamela@epa.gov>
Cc: Vinch, James <Vinch.James@epa.gov>; Castillo, Jairo <Castillo.Jairo@epa.gov>
Subject: Re: Hendersonville NC Sanitary Sewer Overflows -- Supplemental Information

Ms. Riley,

I am providing this supplemental information to give a more complete picture of these on-going disgraceful and illegal discharges of human waste to public streets, public parks and walking trails as well as to waters of the United States.

I am comparing the DEQ responses to the Hendersonville SSOs and the Halfway Tree trailer park because there is such a dramatic difference in the DEQ actions such that equal treatment under the law is required. They both are regulated by the same state, the same state agency, they both are in the same state region, they both are in the same county, and the same DEQ individuals have supervisory responsibility for both. You will see below that there are vast differences in the DEQ responses in timeliness, effectiveness, penalties assessed, and required remedies.

--With respect to the NC DEQ response to the small intermittent septic system discharges from the Halfway Tree trailer park. This facility of approximately 100 units that began operation in the 1950's serves low to moderate income people. Its sewage treatment is provided by septic systems. The drain fields have some leakage during extensive wet periods. (Not unlike the Hendersonville SSOs that occur during wet periods.) These illegal discharges are small, and infrequent. Nevertheless, the NC DEQ appropriately responded promptly to citizen complaints and within months assessed a $65,000 penalty

and threatened additional action. The agreed upon remedy includes a reduced, but still substantial, penalty ($35,000) mandatory sampling, compliance schedule, etc. and requires an expenditure of approximately $1,000,000. The cost of approximately $10,000 per housing unit is a heavy burden for these low to moderate income tenants.

In contrast, the NC DEQ response to long standing Hendersonville illegal discharges of raw sewage had been completely lackadaisical until two years ago when I first got involved. (The DEQ's immediate response was to issue token penalties for some of the violations in the prior year so they would be covered against claims of non-enforcement.)

FYI, I have lived in this area for more than 40 years. I was active in the 1980's to bring this to the attention of the DEQ. I thought these SSOs were ended with the construction of a new WWTP in 2002. I now know that there have been dozens and dozens of reported SSOs in the last several years. Their frequency and magnitude show no signs of diminishing.

A small number of the Hendersonville SSOs have been due to lift station power failures, plugged lines and similar issues. The overwhelming number of the Hendersonville SSOs have occurred due massive inflows of rain water that surcharge the collection system due to the fact that the hydraulic capacity of the WWTP is insufficient to handle the flow. These surcharges lead to releases of raw sewage mixed with rain water. These releases are a potent mix of rain water and non-disinfected human waste.

The WWTP has an average dry weather influent flow of approximately 2.4 MGD. The short-duration (3-5 days) maximum hydraulic capacity of the WWTP is 4400 gpm, or 6.3 MGD. Collection system surcharges occur with as little as one inch of precipitation. These surcharge events occur many times a year and last for many hours. For example, in February 2019, the collection system was surcharged for 155 hours, indicating excess flow of 28,000,000 gallons.

The cause(s) of the WWTP hydraulic surcharges is (are) the inflow of rain fall through illegal connections, broken lines, local area flooding, etc. There are several potential solutions separately or in combination. (1) Repairing the 100+ year old sewer system is ongoing, but the Hendersonville consultant indicates this is a struggle just to keep up with the current levels of inflow. (2) Increasing the hydraulic capacity of the full system. This is an extremely expensive undertaking that would only be used a few days at a time. (3) Installing influent flow equalization. This is also costly, and also would have limited use but is less costly than item 2. The final solution may possibly incorporate all three elements.

In the last two years there have been many SSOs reported. In many cases there have been no penalties at all. The others have received penalties of token amounts.

I stated that I believe that many SSO events have not been reported. This is based on several facts. First, virtually all of the reported SSOs due to sewer system surcharges have "start" times that fall within the period of 7:30 am and 4:30 pm, Mondays thru Friday, which 27% of the hours in a week. It is likely that many SSOs have occurred outside this time window. In addition there are miles of major sewer lines that pass through isolated areas without easy viewing by the staff or the public.

I also stated that I believe that the reported quantities of sewage discharged during the reported SSO events have been been understated. The "start" time of a SSO is established by the time that it is first observed. I believe, for surcharge caused SSOs the time the surcharge begins is a more appropriate estimate of the "start" time. For example, if the "start" time of the August 3,2018, SSO event occurred when the WWTP surcharge began, the actual quantity discharged would be 160,000 gallons rather than the reported 6,000 gallons.

A multi-week sampling program conducted by a local environmental group in September 2018 showed very substantial increases of fecal coliform during moderate rain events at several locations within Hendersonville proper that are away from Mud Creek as well as in Mud Creek itself. These fecal coliform results suggest that parts of the Hendersonville city streets, public parks and walking trails may be contaminated by human waste during moderate to heavy rain events.

As an update, Hendersonville has reported eight SSOs in eight days in January 2020.

It is clear that these SSOs are violations of the Clean Water Act and are subject to civil penalties of $25,000 per day, per location as well as criminal penalties. These violations are clearly knowing and repetitive. In my view they are willful because the the cause is known and insufficient resources have been applied to prevent their recurrence.

As previously noted, unlike some municipalities, Hendersonville has adequate resources to finance projects, as evidenced by the funding in the last few months for a new police station ($11,000,000) a new fire station ($7,000,000) and a parking garage ($8,000,000).

The lack of effective enforcement action by the NC DEQ requires that EPA take over enforcement action. It is essential that a complete sewer connection moratorium be imposed until system improvements reduce WWTP influent surcharge frequencies to no more than once in two years.

I would like to speak with you in the next few days to see how this important measure can be expedited. Please let me know when we can arrange a conference call.

Sincerely,

William C. Hiatt, PhD, PE

828 891 8903

From: whiatt@morrisbb.net <whiatt@morrisbb.net>
Sent: Tuesday, January 21, 2020 10:57 AM
To: Vinch, James <Vinch.James@epa.gov>
Subject: Hendersonville NC Sanitary Sewer Overflows

Mr. Vinch,

Thank you for providing information about some of the Sanitary Sewer regulations. I appreciate your offer to help me find the appropriate Region 4 personnel that can address this serious matter.

Hendersonville NC, is located in Henderson County approximately 20 miles south of Asheville. Hendersonville and Henderson County are experiencing continuous residential and commercial growth requiring sewer service from Hendersonville.

Hendersonville has reported dozens of SSOs in the last few years. Many have occurred during even moderate rainfall events. For more than two years I have been discussing these egregious discharges of raw sewage with Hendersonville and the NC DEQ. The DEQ has sometimes issued token penalties, typically less than $5000, and many times issued no penalties.

(There is good reason to believe that the number of SSOs has been under-reported, and that the quantities of raw sewage discharged have also been under-reported. I can provide more information in this regard.)

In addition to discharges of raw sewage to Mud Creek, limited sampling by the local environmental group has found excessive fecal coliform levels in streams in residential areas with in the city.

Unlike other NC cities, Hendersonville is able to fund infrastructure that they deem important. For example, in the last several months Hendersonville has approved $11,000,000 for a new police station, $8,000,000 for a new parking deck and $7,000,000 for a new fire station.

Furthermore, the DEQ has taken unequal enforcement action. For example, there is an unfortunate case of a private trailer park serving moderate to low income residents that has leaking septic systems. The DEQ has taken swift and effective action in this matter issuing a major fine and taken other actions. The final (necessary) action will result in costs of approximately $10,000 per household.

My more than two years of effort to encourage the DEQ to take swift and effective action with Hendersonville have been fruitless. It is clear that Hendersonville is only going to respond to a sewer connection moratorium.

At this point I believe it is time for EPA to take over enforcement of the Clean Water Act and end these frequent illegal discharges of raw sewage.

Sincerely,

William C. Hiatt, PhD, PE

828 891 8903