



Settlement with Cartwright Creek and Harpeth Wastewater Cooperative

Cartwright Creek (which serves River Rest) and Harpeth Wastewater Cooperative (which serves Cottonwood, Legends Ridge, and River Landing) have expressed strong interest in cooperating towards a healthy Harpeth River and have worked quickly to negotiate with HRWA concerning the permit violations detailed in HRWA's Clean Water Act (CWA) 60 day notice sent in January 2014. In early November, federal district court approved the settlement agreements filed in late August which contain the following terms:

- **In-stream Water Quality Monitoring:** Cartwright Creek and Harpeth Wastewater Cooperative will each provide \$40,000 (\$80,000 total) to fund needed water quality monitoring in the Harpeth River during summer low flow conditions. Each utility will provide a \$10,000 grant each year for a three year period. During the fourth year, the remaining balance will be used by the Tennessee Wildlife Resources Agency (TWRA) to fund other monitoring or restoration projects in the Harpeth Watershed.
- **Nutrient Management Plan:** both utilities have agreed to develop and implement a NMP sufficient to satisfy the requirement in their current and pending CWA permits.
- **Stakeholder Group Participation:** both utilities agree to participate in a Harpeth River watershed stakeholder group, whose purpose is engage government, wastewater facilities, landowners, and citizens to work cooperatively towards creating a watershed restoration plan and designing river studies necessary to determine how best to improve water quality.

These reasonable settlement terms will form the basis of a watershed wide collaborative effort to monitor water quality and work collectively toward the Harpeth River's restoration.

Negotiation Attempts with Franklin



Since providing the City of Franklin with a notice of CWA violations discovered in HRWA and the Southern Environmental Law Center's (SELC) review of public records, HRWA worked to negotiate a settlement with the City that would best provide for resolution of the continuing violations, the future operation of Franklin's sewage plant, and the restoration of the river.

In January of this year, HRWA provided Franklin with a 60 day notice under the citizen suit provision of the CWA. In March, the City responded to HRWA, disputing the claims. On March 11, HRWA met with the City and asked for documentation showing all steps Franklin had taken towards permit compliance. These records were received on March 28.

A review of these records found that HRWA's 60 day notice to Franklin has been effective in getting the City to address some of the compliance issues.

Although the City publicly responded to the 60 day notice with its concern "about the level of city resources that are consumed when sensationalized allegations are made," several corrective actions have already been taken to fix reporting problems highlighted in the 60 day notice. The CWA relies on self-reporting by permittees in order to determine compliance with the Act.

These corrective measures taken by Franklin include:

- the correction and re-submission to TDEC of numerous records that contained errors or missing data,
- City cooperation with TDEC to revise standardized forms to contain all parameters that require reporting under Franklin's NPDES permit, and

- the implementation of a standard operating procedure to ensure that future reporting is in compliance with Franklin's NPDES permit.

These and subsequent records indicate that the City has not corrected several other compliance issues raised by HRWA (see Fact Sheet 4), including:

- implementing the policies recommended by EPA regarding sewer overflows,
- satisfying the Nutrient Management Plan requirement, and
- carrying out continuous in-stream water quality monitoring,

Additionally, the records show that Franklin:

- began a permit-required Toxicity Identification Evaluation (TIE) study to investigate the cause of repeated biomonitoring violations, but has since concluded the study without identifying the cause(s), and
- finished its investigation into June 2013 ammonia violations, but did not discover the cause(s) of the violations.

Settlement Terms Offered to Franklin

HRWA and SELC provided a formal settlement offer at the City's demand in early May that is similar to the terms agreed upon by the two smaller sewer facilities. That settlement offer was provided with the statement that it was openly subject to negotiation. The settlement included no monetary penalties or attorneys' fees to be assessed for the numerous past permit violations. The terms of the settlement offer include:

- **Overflow Best Practices Procedures:** City would agree to carry out the recommendations made in EPA's September 2013 Compliance Evaluation Inspection Report (e.g., Sewer Overflow Response Plan (SORP));
- **Third Party Inspection for Undetermined Causes:** a third party inspection of summer plant operation would occur to evaluate operations and to determine the causes of ammonia and toxicity violations;
- **Influent Flow:** City would agree to fix its inaccurate flow measurements into the sewer plant;
- **Stakeholder Group:** Franklin would agree to participate in a stakeholder group, which would include Cartwright Creek, Harpeth Wastewater Cooperative, and HRWA, as well as TDEC, EPA, other expert state and federal agencies and outside experts. The stakeholder group would prepare a watershed restoration plan and design river studies funded by proportionate funding from the stakeholders.
- **Nutrient Management Plan:** City would agree to develop the Nutrient Management Plan required by its permit since 2010;
- **In-Stream Water Quality Monitoring:** City would agree to conduct the continuous, in-stream monitoring program required by its permit since 2010.



HRWA has heard no response from the City concerning the settlement offer or its terms, and the City has shown no indication that it wants to discuss the continuing sewer plant problems.

Let Franklin know that the **best Southern town** deserves the **best Southern river!**

- **Contact Mayor Moore and the Aldermen** at www.franklin-gov.com
- **Attend BOMA meetings** on the 2nd and 4th Tuesday of every month at 7 PM
- E-mail us at HRWA@harpethriver.org to get involved and help protect our river