



Harpeth River Watershed Association files Clean Water Act Lawsuit against City of Franklin over Sewer Plant Permit Violations

HRWA and Two Small Sewer Plants Have Agreed to Settle- Includes Launching Needed River Water Quality Studies

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Nashville, TN (August 26., 2014)– Following through on the earlier filing of a 60 day notice of intent, the Harpeth River Watershed Association (HRWA), represented by the Southern Environmental Law Center (SELC), filed a complaint against the City of Franklin Monday in federal district court alleging violations of the Clean Water Act resulting from noncompliance with important provisions of its sewage treatment plant permit.

These permit violations include: (1) sewer overflows, the release of untreated raw sewage from the collection system, including a response plan that EPA found in its inspection in 2013 to be “severely inadequate,” (2) failure to conduct required continuous in-stream water quality monitoring, (3) failure to determine source of toxicity and ammonia violations, (3) failure to develop a Nutrient Management Plan on how the current sewer plant can reduce nitrogen and phosphorus discharges that feed algal growth and cause low dissolved oxygen levels below state water quality standards, (4) as well as other important continuing problems.

Cartwright Creek, LLC, and Harpeth Wastewater Cooperative (formerly Berry’s Chapel Utility and Lynwood Utility) have worked cooperatively with HRWA and have signed letters of intent to settle. Both utilities are confirming their obligation to meet permit conditions and are agreeing to participate in a broad watershed basin Stakeholder Group that will create a much needed restoration plan and implement critical river studies necessary to determine cost effective solutions to restore the Harpeth. Agreed upon terms include the development and implementation of the permit required Nutrient Management Plan and for each utility to provide funding over four years for needed water quality monitoring on the Harpeth by the U.S. Geological Survey. The TN Department of Environment and Conservation (TDEC) has also issued a Commissioner’s Order requiring Cartwright Creek to meet timelines to invest in repairing leaky sewer collection lines and other problems that have been ongoing at the sewer plant in the River Rest community in the Grassland area.

“While these two sewer plants are only 10% of the treated sewage volume permitted to be discharged into the Harpeth, the violations in the 60 day notices are very similar among all three sewer plants,” explains Matt Dobson, President of the Board of Directors of HRWA. “These small sewer plants recognize that these problems are significant to the welfare of the Harpeth and are agreeing to address these problems and work together with HRWA, TDEC, US Geologic Service, and Tennessee Wildlife Resources Agency and others on solutions for the river with no monetary penalty imposed for the past violations. The question is-- why is the City of Franklin NOT interested in taking similar steps to clean up the Harpeth?”

HRWA and SELC provided a formal settlement offer at the City’s request 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 offer included no monetary penalties or attorneys’ fees to be assessed for the numerous past permit violations. The City has never responded. Franklin’s lack of response has given HRWA no choice other than to file the complaint, putting the facts before an impartial judge in order to resolve differences. These violations are important to correct in order to restore water quality in the Harpeth.

The purpose of the 60 day notice requirement is to give a permittee time to comply with its permit before a citizen suit may be filed. This process has been successful in that the City of Franklin has addressed important reporting problems and resubmitted many months of reports. These corrected violations are not included in HRWA's complaint. Correct reports are important because the Clean Water Act relies on self-reporting by permittees in order to determine compliance. The 60 day notice has been extended and the City has had over 200 days to comply with its permit.

Background:

The Clean Water Act and the Tennessee Water Quality Control Act require sewage treatment plants to obtain permits for the discharge of their treated wastewater. The permits held by these three facilities limit discharge amounts and set specific requirements for monitoring and reporting these discharges. HRWA's and SELC's research over the past 5 years of records identified approximately 1495 numeric violations (violations related to the amount of pollutants discharged), 18,600 monitoring violations (days out of compliance in the monitoring period), 385 reporting violations, as well as hundreds of other violations of the permits held by the three facilities. TDEC is currently finalizing new versions of these permits that may not set discharge limits sufficient to ensure compliance with state water quality standards for the impaired/polluted Harpeth River. Franklin has also requested some current permit conditions be removed and that limits related to nitrogen and phosphorus be loosened or eliminated entirely.

On January 15, 2014, Southern Environmental Law Center (SELC), on behalf of the Harpeth River Watershed Association (HRWA), sent 60 day Notice of Intent letters that detailed how the City of Franklin Sewage Treatment Plant, Berry's Chapel Utility (now called Harpeth Wastewater Cooperative) Sewage Treatment Plant, and Cartwright Creek LLC-Grasslands Sewage Treatment Plant have repeatedly violated pollution limits in their permits. The resulting sewage discharge has significantly degraded the Harpeth River.

The 125 mile-long Harpeth River begins in Eagleville, before flowing through downtown Franklin and Williamson County, one of the fastest growing regions of the country. The Harpeth River is a State Scenic River as it continues through Metro Nashville/Davidson County downstream from the three sewage treatments plants. The Harpeth River continues through Cheatham County and the Harpeth River State Park before joining the Cumberland River at Ashland City. Despite its importance, the river does not meet the state's water quality criteria in several respects and is impaired as determined by TDEC due to unacceptably high nutrient levels and associated low levels of dissolved oxygen among other pollutants.

"The Harpeth is one of the unique freshwater river systems in the Southeast, but unfortunately we have reached a critical point where this sewage discharge threatens the health of the river, especially during the summer months when the river is naturally a low flowing river and already experiencing poor water quality caused by upstream sources," said Dorie Bolze, executive director of the Harpeth River Watershed Association. "Our mission is to work in partnership with the sewage treatment plants, local governments, and state and federal agencies – as our organization has done for many years – to find and implement solutions that will remove this excess pollution and protect this important and beloved river."

The Franklin sewage treatment plant serves approximately 62,000 people and is designed to treat 12 million gallons a day. This makes it the largest point source of discharge in the entire Harpeth River watershed. Because of the river's characteristic low flows, especially during the summer, the Harpeth's flow is dominated by treated sewage discharges. Just this past July according to City records, the river's flow for the month averaged 32% treated sewage, with 8 days over 50% and a maximum of 81% now that the sewer plant is handling closer to its capacity.

"We know the water quality of the Harpeth suffers as a result of this sewage discharge during the summer months because there are years of data that show the river does not meet water quality standards downstream of each sewer plant as well as for over 50 river miles downstream through the State Scenic river section and through parts of the Harpeth River State Park in Davidson and Cheatham Counties," said Bolze. "But we don't even understand the full extent of the problem because some of the legally required monitoring and reporting just isn't happening. This poses too serious a risk for the river for that to continue."

For factsheets, maps, and copies of the complaint, original 60-day notices and more details on the water quality conditions in the Harpeth River: www.harpethriver.org/programs/waterquality/stps

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About Harpeth River Watershed Association

The Harpeth River Watershed Association (HRWA) is a 501(c)(3) not-for-profit, science-based conservation organization dedicated to protecting the State Scenic Harpeth River and clean water in Tennessee. The Harpeth is one of the unique freshwater river systems of the Southeast which contain one of the greatest variety of aquatic life in the world. For nearly 15 years, HRWA has collaborated with landowners, businesses, local, state, and federal decision makers and other to put solutions in place to maintain healthy regions, reduce pollution, and restore streambanks so that the Harpeth River meets water quality standards set for people and wildlife. Current programs include: River Restoration & Wildlife Protection, Water Quality & Sustainability, and Outreach & Recreation.

The 125 mile-long Harpeth River begins in Eagleville and flows through both rural and developed landscapes, including through the heart of one of the fastest growing regions of the country, before emptying into the Cumberland River near Ashland City. The Harpeth River Watershed includes the main river and over 1,000 miles of tributaries that drain an area of land approximately 870 square miles across Rutherford, Williamson, Davidson, Hickman, Dickson and Cheatham Counties. The Harpeth is a State Scenic River as it flows through greater Metro Nashville/Davidson County. www.harpethriver.org.