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City of Memphis v. Horn Lake Creek Basin Interceptor Sewer District

United States District Court, W.D. Tennessee, Western Division - September 22, 2023 - Slip Copy - 2023 WL 6200074

In the 1970s, the City of Memphis entered into an agreement to treat wastewater collected by a Sewer District in Mississippi in exchange for fee payments based on the volume of wastewater delivered.

In 2018, the City informed the District that it would no longer extend wastewater treatment services to the District. The City requested that the District develop and submit a “detailed plan of action for the removal of its users from the City’s sanitary sewer system along with a proposed schedule within the next six (6) months.

Complex litigation ensued, after which the U.S. District Court held that:

- “The City of Memphis shall continue treating the wastewater from the Horn Lake Creek Basin Interceptor Sewer District of DeSoto County, Mississippi until such time as the District is able to complete all necessary construction to begin operations and route wastewater to an alternative treatment facility.”
- “The District shall have eight (8) years from October 1, 2023, in which to complete construction or expansion of an alternative wastewater treatment facility. On or before December 29, 2023, the District shall file on the docket its estimated construction schedule based on this time period. Thereafter, until the District disconnects from the City’s system, the District shall file reports every six months²⁹ that include detailed descriptions and explanations of: (1) its progress toward meeting the deadlines set forth in its construction schedule, and (2) any issues or circumstances that have caused delays, including the impact on the construction schedule.”
- “On or before December 29, 2023, the District shall file a construction schedule for the remaining work needed to complete its peak flow storage facility. Thereafter, until the peak flow storage facility begins operating, the District shall file reports every six months that include detailed descriptions and explanations of: (1) its progress toward meeting the deadlines set forth in its construction schedule, and (2) any issues or circumstances that have caused delays, including the impact on the anticipated schedule.”
- “Until the District disconnects from the City’s system, it shall pay to the City a volumetric rate for treatment of its wastewater, Beginning September 23, 2023, the District’s volumetric rate shall be calculated using the following formula: District’s Rate = Agreements Rate + ((Ordinance Rate - Agreements Rate) x Applicable Percentage). The “Applicable Percentage” will increase each year according to the following schedule...”

