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## Construction/Stormwater Enforcement: Tennessee Department of Environment and Conservation Proposed Order/Assessment Related to Livingston Land Disturbance Activity

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The Tennessee Department of Environment and Conservation ("TDEC") issued a September 8th Director's Order and Assessment ("Order") to Byrdstown Investments, Inc. ("Byrdstown") for alleged failure to obtain coverage under the Tennessee General Permit for Discharges of Stormwater Associated with Construction Activities ("CGP"). See Case Number WPC20-0082.

The Order provides that Byrdstown is conducting land disturbance activities at a site ("Site") in Livingston, Tennessee.

The Site is stated to have caused discharges that reach waters of the state. It specifically provides that the Site discharges to Dillon Pond which discharges to subsurface waters via underground injection.

Tennessee Division of Water Resources ("Division") personnel are stated to have conducted an inspection at the Site on June 26th. They are stated to have observed more than one acre of soil that had been disturbed for construction and that erosion protection and sediment control measures had not been properly installed or maintained.

The Order also states that Byrdstown had not obtained CGP coverage from the Division for such land disturbance. It further describes approximately 1.5 acres of land having been disturbed and a building pad established.

Division personnel are stated to have conducted a follow-up inspection at the Site. This inspection is stated to have discussed the need to implement appropriate erosion controls and to apply for CGP coverage.

Byrdstown is stated to have submitted a Notice of Intent, a Stormwater Pollution Prevention Plan, and application fee. Division personnel are stated to have determined that the Stormwater Prevention Plan was insufficient. Such deficiency is stated to have included the fact that it only discussed the placement of seed and straw matting around an approximate 10-foot perimeter of the building pad. Further, it is stated to have not included stormwater controls required by the CGP.

The Division is stated to have conducted another follow-up inspection and observed an approximate 10-foot perimeter of seed and straw matting placed on two sides of the building pad. No other stormwater control measures were stated to have been undertaken.

The Division is stated to have incurred damages in the amount of \$581.76 while investigating the alleged violations.

Byrdstown is alleged to have violated Tenn. Code Ann. § 69-3-108(b) and 114(b) by discharging pollutants to waters of the state without a permit.

The Order proposes to assess a civil penalty of \$5,200 and assess \$581.76 in damages. Further, it requires that Byrdstown submit a revised Notice of Intent and Stormwater Pollution Prevention Plan that includes all stormwater controls required by the CGP on or before the 31st day after receipt of the Order. Such stormwater measures are required to be installed no later than 31 days after receipt of the Order.

The Order provides certain appeal rights.

A copy of the Order can be downloaded [here](#).