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Wastewater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Sebastian County Land Application Site Operator Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Terra Renewal Services, Inc. (“Terra”) entered into a November 30th Consent Administrative Order (“CAO”) addressing alleged violations of a land application permit. See LIS No. 20-188.

The CAO provides that Terra operates land application sites (“Sites”) in Sebastian County, Arkansas.

DEQ is stated to have issued a No-Discharge Water Permit (“Permit”) to Terra on May 31, 2016, which expires on May 31, 2021.

Inspections by Arkansas Game and Fish Commission personnel regarding the alleged impact on a private pond in Hackett, Arkansas, are described in the CAO. Also referenced was the alleged presence of an oil-type residue on the surface of the pond, along with dead or gasping fish.

DEQ is stated to have undertaken a complaint inspection upon referral from the Arkansas Game and Fish Commission.

On April 25, 2019, a reconnaissance inspection by DEQ is stated to have identified the following alleged violations:

- Runoff and pooling, violating Part II, Condition 2 of the Permit
- Dead vegetation observed throughout the area of recent application, violating Part II, Condition 4 of the Permit
- Caking, clumping, and cracking observed on several areas of application demonstrating surface applied waste not evenly distributed over the entire application area, violating Part II, Condition 10 of the Permit
- Application of waste occurred while the ground was saturated, during precipitation events, and when precipitation was expected within 24 hours, violating Part II, Condition 13 of the Permit

- Placing of industrial waste on Field TB-11 not in compliance with the Permit and where surface flow is likely to carry pollution from the industrial waste to waters of the state
- Discharge of pollutants to waters of the state without first having obtained a permit from DEQ

DEQ is stated to have inquired as to the application methods used to apply the waste as documented in the field logs from April 16, 2019, through April 23, 2019. Terra is stated to have responded that “all of the loads on the field logs I sent were injected.” The company responded to a request that it undertake actions to resolve and correct the violations.

DEQ is also stated to have received two complaints of odor and excessive flies near the permitted land application Sites. However, DEQ is noted to not regulate odor. Also referenced is a complaint regarding saturated field conditions alleged to be Terra’s Site.

DEQ is stated to have requested daily slug application records which were provided by Terra. The CAO provides that the land application records indicate Terra applied waste on days where the National Ocean Atmospheric Administration documented precipitation occurring at the Fort Smith Regional Airport which is 17.5 miles from the Site. DEQ is stated to have received two complaints regarding land application when precipitation was imminent within a 24-hour period.

Paragraph 27 of the CAO provides:

On October 10, 2019, DEQ received two (2) complaints that Respondent was land applying waste when precipitation was imminent within a 24-hour period. On October 10, 2019, DEQ Inspectors spoke with the owner of the property identified as TB-14 where land application was occurring. The property owner stated that the company doing land application contacted him that morning and said they would cease work due to the radar image of impending rainfall and subsequently the land application company left. Land application when precipitation is imminent within a 24-hour period is a violation of Part II, Condition 13 of the Permit and is therefore a violation of Ark. Code Ann. § 8-4-217(a)(3). Weather conditions changed so the Respondent determined that rain was imminent. Conditions may differ across Sebastian County from those observed at the Fort Smith Regional Airport; however, the area was experiencing intermittent, major storms.

It was further noted that DEQ did not provide Terra with a complaint or inspection report by mail. As a result, Terra is stated to have not had an opportunity to respond to any complaint or inspection related to the October 10, 2019, complaints.

The CAO requires that Terra immediately comply with all terms and conditions of the Permit. Further, it is prohibited from land applying waste on Fields TB-11 and TB-14 for a one-year period. An option is provided for Terra to land apply waste on Field TB-12 during the one-year period if it undertakes certain measures as described in the CAO.

The CAO assesses a civil penalty of \$14,900.

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