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No-Discharge Permit/Stormwater Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and El Dorado Bulking/Storage Facility Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Southark Disposals Group, LLC (“Southark”) entered into a May 17th Consent Administrative Order (“CAO”) addressing alleged violations of a Stormwater General Permit and No-Discharge Permit. See LIS No. 21-047.

The CAO provides that Southark owns and operates a bulking and storage facility (“Facility”) in El Dorado, Arkansas.

Southark is stated to operate pursuant to three DEQ permits:

- Construction Stormwater General Permit (“Construction Permit”)
- Industrial Stormwater General Permit (“Industrial Permit”)
- No-Discharge Permit (“No-Discharge Permit”)

Southark is stated to have been issued a permit by the Arkansas Oil and Gas Commission for the disposal of Class II fluids. Such permit is stated to not include industrial wastes at a facility known as the Hutcheson Commercial Disposal Well.

The company is stated to have been issued a Notice of Violation for violations of Arkansas Oil and Gas Commission Rule H-3 for allegedly accepting and disposing of non-Class II fluids at such well. Further, DEQ is stated to have not issued any permit for the disposal of industrial waste at the Hutcheson Commercial Disposal Well.

Southark is stated to have been accepting industrial wastewater from a Louisiana paper mill for disposal at the Hutcheson Commercial Disposal Well. The CAO provides that Southark is not authorized to discharge industrial wastewater at any disposal site or well unless permitted by DEQ for discharge of such wastes.

Part I, Condition 9 of the No-Discharge Permit is stated to require Southark to submit to DEQ, on or before August 15th of each calendar year, a detailed cost estimate to close and restore the permitted Facility in

accordance with the DEQ-approved closure plan. Southark is stated to have failed to provide a cost closure estimate for 2019 to DEQ by August 15, 2019. Further requests were stated to have been made by DEQ regarding the 2020 cost closure estimate. Southark is stated to have failed to provide a cost closure estimate for 2020 to DEQ by August 26, 2020.

The CAO describes 2020 cost closure estimates submitted by Southark. Various deficiencies in the cost closure estimates are described.

Certain records were requested from Southark related to the No-Discharge Permit. The records requested included:

- Copies of documentation of certain wastes received by the facility
- Copies of documentation of any offsite transfer of wastes or treated wastes
- A complete inventory of current onsite solids volume and approximation of onsite liquid volume as of June 1, 2020
- Training and inspection records
- Copies of construction records and certifications by Professional Engineers of all permanent onsite waste storage facilities
- Current updated Stormwater Pollution Prevention Plan
- Updated Disclosure Form
- 2020 Closure Estimate
- Updated Signatory Authorization Form

An incomplete Disclosure Form is stated to have been submitted on July 21, 2020. However, some delivery tickets are stated to have been submitted for waste received but insufficient to address the requirements of the No-Discharge Permit or DEQ's request for records.

DEQ is stated to have inspected the Facility and documented a discharge of yellow unknown liquid waste from the Facility into an unnamed tributary of Boggy Creek on May 15, 2020. This was alleged to be an unpermitted discharge from the Facility into waters of the state. DEQ subsequently inspected the Facility and is stated to have documented the release of wastewater from the No-Discharge containment area to the stormwater pond. Further discharges are stated to have been identified, constituting violations of the No-Discharge Permit.

A No-Discharge Permit renewal was stated to have not been submitted by the required date. Further, Southark is stated to have submitted permit transfer forms on May 19, 2021, for certain permits which included a permit renewal application for the No-Discharge Permit. The new owner is stated to have submitted an original financial assurance mechanism sufficient for the closure of the Facility by a third party.

The CAO requires that the new owner submit a complete No-Discharge Permit renewal application no later than the effective date of the CAO. Further, Southark is required to immediately comply with the No-Discharge Permit until the final permit decision on the renewal application is effective or the No-Discharge Permit is terminated. In addition, the new owner is required to submit to DEQ for review and approval a closure plan and cost estimate.

Southark and the new owner are prohibited from accepting any industrial process water until DEQ has approved a waste management plan for that type of industrial process water.

The Facility is required to conduct appropriate sampling and analysis for all wastewater and stormwater at the Facility (including sludge and other solid wastes at the Facility). Monthly reports are also required to be submitted to DEQ with certain specified information. In addition, within 30 calendar days of the effective date of the CAO the new owner is required to submit to DEQ for review and approval a Current Conditions Report and Proposed Action Plan.

If the anticipated transaction does not occur, Southark is required to submit to DEQ a Closure Plan developed by a Professional Engineer licensed in the State of Arkansas. In addition a new Waste Management Plan developed by an Arkansas Professional Engineer is required to be submitted. A final compliance date report is also required.

A civil penalty of \$36,800 is assessed, of which \$26,800 is conditionally suspended if Southark and new owner fully comply with the CAO.

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