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Wastewater Enforcement: Alabama Department of Environmental Management and Brookwood Coal Processing Facility Enter into Consent Order

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The Alabama Department of Environmental Management (“ADEM”) and MRC-FG, LLC (“MRC”) entered into a November 15th Consent Order (“CO”) to address violations of a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) Permit. See Consent Order No. XX-XXX-CWP.

The CO provides that MRC operates a coal processing facility known as Mine No. 7 Preparation Plant (“Plant”) in Brookwood, Alabama.

ADEM is stated to have issued an NPDES permit to MRC on February 24th. Such permit established limitations on the discharge of pollutants from certain point sources to unnamed tributaries to Davis Creek.

Inspections at the Plant by ADEM personnel were conducted on April 17th and May 6th.

ADEM is stated to have observed black material in the discharges from a certain outfall resulting in a turbid appearance with substantial contrast to background conditions in an unnamed tributary to Texas Creek and Davis Creek which are classified as suitable for fish and wildlife in violation of certain provisions of the ADEM Administrative Code and NPDES Permit Condition II.D.4.a.

A sample of a discharge from an outfall during the April 27th inspection was collected. Such analysis is stated to have indicated an exceedance of a Total Suspended Solids value. Further, Discharge Monitoring Reports (“DRMs”) submitted by MRC for monitoring periods May and June are stated to show two instances where the reported Total Suspended Solids concentrations exceeded the daily maximum limitation specified in the Permit.

ADEM is stated to have received a Remediation Plan (“Plan”) on May 10th prepared in response to an Alabama Surface Mining Commission Notice of Violation. The Plan provides the results of an investigation to identify the cause of the violations, the results of stream monitoring, and the steps taken to remediate the effects of the discharges and prevent their reoccurrence. ADEM is stated to have received weekly progress reports.

MRC neither admits nor denies the contentions contained in the CO. Further, an Appendix of the CO states while MRC is the permittee for the NPDES Permit, another entity (Warrior Met Coal Mining, LLC)

maintains and manages the outfalls associated with the NPDES Permit in partnership with MRC. It further states:

Due to the events which led to these violations, Warrior Met Coal Mining, LLC will assume responsibility for any penalties associated with this Consent Order.

The CO assesses a civil penalty in the amount of \$25,011. Further, MRC is required to continue to submit reports associated with its progress toward achieving compliance with an existing Plan, and to submit a certification by an Alabama Professional Engineer indicating compliance with all requirements of the CO.

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