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Nashville International Airport/Davidson County: Tennessee Department of Environment & Conservation Enters into Brownfield Consent Order with Various Parties

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The Tennessee Department of Environment & Conservation ("TDEC") entered into a Brownfield Consent Order ("BCO") with the following parties:

- Colonial Pipeline Company
- Tennessee Department of Transportation
- AECOM Technical Services, Inc.
- Metropolitan National Airport Authority

The BCO is stated to address the following described site:

- Nashville International Airport, 1 Terminal Drive, East of Donelson Pike near the northern terminus of Runway 20L/2R

The site is in Davidson County, Tennessee.

The BCO is stated to describe the site as:

... areas impacted by the release of petroleum product (the "release") from a refined petroleum products transport pipeline strike on April 9, 2019, near the northern terminus of Runway 20R/2L at Nashville International Airport, including all impacts from the presence or mitigation of contamination before or after the date of this Order, and any additional areas investigated by the Consenting Parties (as defined herein) that may have been, or may be, impacted by such contamination.

Various federal and state programs (including Arkansas) use risk-based corrective action remediation standards to tailor clean-up levels according to site specific factors. The programs often utilize the term "brownfield." Such programs often take into account criteria such as to what extent the site is characterized and/or future land use. Typically, superimposed upon these various procedures are site-specific analyses and a requirement that the standards be protective of human health and the environment.

Agencies may be willing in some circumstances to provide blessing (subject to certain caveats) of a site's conditions if they deem contaminants adequately delineated and/or isolated from potential exposure. The approval of site conditions will likely be based on a combination of acceptability under applicable

screening levels and/or whether the property uses are compatible with these conditions. The incorporation of enforceable institutional controls (i.e., deed restrictions, restrictive covenants or easements) or controls such as barriers (pavement in a certain area, etc.) might be used to ensure continued adherence to the restrictions by the current and future real property owner.

The TDEC BCO states that it is intended to settle and resolve the potential liabilities of the previously referenced “Consenting Parties” for the real or perceived threat of the presence of hazardous substances, solid waste, waste, or any other pollutant at the Site. The Site was stated to have been accepted into the Tennessee Voluntary Cleanup Oversight and Assistance Program on application of Colonial Pipeline as required by Tennessee Code Ann. § 68-212-224(a)(2). A submission was provided to TDEC that is stated to have contained:

. . . A summary description of all known existing environmental investigations, studies, reports, or documents concerning the Site’s environmental condition. . .

The BCO also contains components which include:

- Financial requirements
- Identification and documentation of matters addressed
- Initial response and recovery efforts
- Summary of all Colonial soil and groundwater sampling data and observations
- Summary of all MNAA Site characterization activities, soil, groundwater and surface water sampling data and observations
- Summary of all Colonial surface water and sediment sampling data and observations
- Agreed liability relief
- Administrative Settlement; third party liability
- Agreed activities to be taken by the Consenting Parties
- Additional requirements
- Site access
- Submission of information, reports or studies
- Dispute resolution
- Reservation of rights
- Confirmation of no termination
- Exhibit A Site Description
- Exhibit B Summary of Technical Reports from the Site

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