Hazardous Waste/Water Enforcement: Arkansas Department of Energy & Environment - Division of Environmental Quality Files Sebastian County Circuit Court Action Addressing Fort Smith Used Oil Processing Facility



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The Arkansas Department of Energy & Environment – Division of Environmental Quality ("DEQ") filed an October 17th Complaint and Request for Injunctive Relief ("Complaint") in the Circuit Court of Sebastian County, Arkansas ("Court") against the following parties:

- Fort Smith Petro Environmental, LLC
- Florida Oil Investment Group, LLC
- Sanon Holdings, LLLP
- Ashish Sanon and Ritu Sanon (Personally and in their official capacity)

(collectively "Fort Smith Petro")

Fort Smith Petro was previously described by DEQ in an Emergency Order ("EO") as operating a used oil processing facility ("Facility") in Fort Smith, Arkansas. (See previous blog post here.)

The EO stated the Facility has nine aboveground storage tanks and one laydown recovery tank. Further it stated the Facility had a secondary containment structure for aboveground storage tanks and the laydown recovery tank. A frac-tank with a separate containment area is stated to have been located adjacent to the aboveground storage tanks and the laydown recovery tank.

The Complaint states that Fort Smith Petro has been issued a National Pollutant Discharge Elimination System ("NPDES") Industrial Stormwater General Permit in 2014. Further, DEQ is stated to have received a complaint reporting that the Sebastian County Office of Emergency Management had investigated on March 10, 2020, a release at the Facility and the City of Fort Smith Fire Department responded and contained the release.

The previously described EO is stated to have ordered Fort Smith Petro to provide DEQ with the name and contact information for a contractor that would take immediate action to remove all free liquid from containment areas to ensure that no waste oil or other identified pollutants would likely be discharged. The EO is also stated to have required additional activities.

Defendants Fort Smith Petro and a referenced individual are stated to have taken some action in response to the EO.

A potential sale of the Facility is referenced in the Complaint which is stated to have not been consummated. Further, the Complaint alleges that certain containment areas have not been adequately repaired and continue to allow the escape of waste oil and other identified pollutants.

The Complaint alleges the following violations of law or harms:

- Violation of the Arkansas Water and Air Pollution Control Act
- Violation of the Arkansas Hazardous Waste Management Act
- Violation of the Arkansas Pollution Control & Ecology Commission Rule 6
- Violation of the Arkansas Pollution Control & Ecology Commission Rule 23
- Violation of state statutes and Arkansas Pollution Control & Ecology Commission Rules
- Causing irreparable harm to the environment and endangering human health

The Complaint requests that the Circuit Court grant the following relief:

- Temporary injunction ordering Defendants to immediately remediate the area to ensure any further continuing environmental damage is halted
- Permanent injunction ordering removal of all waste oil and other pollutants from the Facility
- Assess civil penalties for every day that Defendants have operated in violation of state law and Arkansas Pollution Control & Ecology Commission regulations
- Award of costs and attorney fees for DEQ

A copy of the Complaint can be downloaded here.