Stormwater Enforcement/Clean Water Act: United States Department of Justice and Fort Smith, Arkansas, Based National Freight Carrier Enter into Consent Decree

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03/22/2023

The United States Department of Justice ("DOJ") and ABF Freight System, Inc. ("ABF") entered into a March 20th Consent Decree ("CD") addressing alleged violations of Clean Water Act Industrial Stormwater Permits. See United States District Court for the Western District of Arkansas Civil No. 2:23-cv-02039-PKH.

The following states are also signatories to the Consent Decree:

- Louisiana Department of Environmental Quality
- State of Maryland
- State of Nevada

The DOJ describes ABF as a:

. . . a freight carrier that operates more than 200 transportation facilities in 47 states and Puerto Rico. . .

The Complaint filed by DOJ associated with the CD references certain ABF transportation facilities of various sizes across the United States. The facilities identified are known as:

- Terminal 086 in Atlanta, GA
- Terminal 089 in Lawrenceville, GA
- Terminal 034 in South Chicago, IL
- Terminal 050 in Indianapolis, IN
- Terminal 082 in Jefferson, LA
- Terminal 048 in Elkridge, MD
- Terminal 140 in Las Vegas, NV
- Terminal 067 in Cincinnati, OH
- Terminal 064 in Dayton, OH

The referenced ABF facilities are stated to be classified within the Standard Industrial Code 4213 (establishments primarily engaged in furnishing "over-the-road trucking services or trucking services and storage services, including household goods, either as common carriers or under special or individual contracts or agreements, for freight generally weighing more than 100 pounds).

The alleged violations involve conditions and limitations of permits for the discharge of stormwater issued by state authorities pursuant to Section 402 of the Clean Water Act.

The United States Environmental Protection Agency ("EPA") is alleged to have inspected the referenced ABF facilities.

The inspections are alleged to have identified violations such as:

- Failure to clean up spills
- Failure to implement required spill prevention measures
- Failure to implement measures to minimize contamination of stormwater runoff
- Failure to conduct monitoring of stormwater discharges as required
- Failure to provide all required training to ABF employees

The CD requires that ABF enhance and implement its comprehensive, corporate-wide stormwater compliance program at all its transportation facilities except those located in the State of Washington. A $535,000 penalty is assessed, a portion of which is directed to the Louisiana Department of Environmental Quality, State of Maryland, and State of Nevada.

A link to the Complaint and CD can be found here.