Natural Resource Damages/CERCLA: United States/State of Georgia and Poultry Processing Facility Enter into Consent Decree



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The United States Department of Justice ("DOJ") on behalf of the United States of America and the State of Georgia entered into a Consent Decree ("CD") with Gold Creek Foods, LLC ("Gold Creek") addressing the recovery of alleged natural resource damages pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"). See Civil Action No. 2:26-cv-00177-RWS.

DOJ and the State of Georgia had previously filed a complaint under Section 107 of CERCLA related to what is denominated the Flat Creek Hazardous Substance Release in Dawsonville, Georgia on or about March 20, 2018 ("Incident").

The CD has been filed in the United States District Court in the Northern District of Georgia.

Gold Creek is alleged to have been responsible for the 2018 Incident/ferric chloride spill in Flat Creek.

The CD establishes a legal framework for the restoration project that Gold Creek will undertake. Further, it provides that Gold Creek will provide compensation for restoration activities.

Natural resources are alleged to have been injured. Further, they are stated to have been evaluated as part of a damage assessment related to the Incident. The determination had been made that settling with Gold Creek as provided in this CD would fairly compensate the public for these injuries to natural resources.

Gold Creek does not admit any liability arising out of the transactions or occurrences alleged in the complaint, nor does it admit the facts alleged in the complaint.

Key components of the CD include:

- PERFORMANCE OF THE NRD WORK.
- PROPERTY REQUIREMENTS.
- Trustee Access to Restoration Project Locations and Information.
- INDEMNIFICATION.
- PAYMENTS FOR COSTS.
- Payment for Past Assessment Costs ($106,772.55).
- Payment for Adaptive Management Costs ($137,831).
- Payment for Future Restoration and Monitoring Costs ($112,169).

A copy of the CD can be found here.