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Hazardous Waste Enforcement: Arkansas Department of Environmental Quality and Russellville, Arkansas Wood Processing/Treatment Facility Enter into Consent Administrative Order

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The Arkansas Department of Environmental Quality (“ADEQ”) and Stella Jones Corporation (“SJC”) entered into a June 24th Consent Administrative Order (“CAO”) addressing alleged violations of Arkansas Pollution Control and Ecology Commission Regulation No. 23. See LIS No. 19-059.

The CAO provides that SJC owns and operates a wood processing and treatment facility (“Facility”) in Russellville, Arkansas.

The Facility is stated to treat green and seasoned wood with creosote to produce railway ties and timbers. It is further stated to contain:

. . . two (2) drip pads, the North drip pad, which has one (1) treatment cylinder, and the South drip pad, which has two (2) treatment cylinders, operating using the ‘Boulton Process,” whereby the treatment cylinder is charged with wood, and heated preservative is used to heat the wood charge for 1 to 24 hours. At that point, a vacuum is drawn. Finally, the preservative is returned to the work tank. Tank Farm #3 at the Site contains a working tank (Tank #9), two fresh produce tanks, and an evaporator system. This evaporator system receives drip pad wash waters, drippings, and condensates contaminated with creosote, which results in the generation of creosote-contaminated waters that carry hazardous waste code F034. Wastewaters and process residuals are collected and treated in an on-site wastewater treatment unit which is subject to 40 CFR Part 429 Subpart H. As such, this treatment process is regulated under the Clean Water Act as a zero discharge system.

SJC is stated to be a Large Quantity Generator of hazardous waste.

ADEQ is stated to have received on November 28, 2016, a complaint alleging that creosote leaks out of the back side of Tank Farm #3, running down the wall and onto the ground, approximately 20 feet from a storm drain. The state agency is stated to have conducted a Compliance Evaluation Inspection (“CEI”) on December 12, 2016, at the Facility.

The CEI allegedly identifies the following violations of Regulation No. 23:

- Failure to make hazardous waste determinations on residual creosote, creosote-contaminated condensation and drippage, and creosote-contaminated water collected inside the secondary containment and the condensation released outside the building. The wastewater in the secondary containment was the result of a malfunction, and was ultimately managed in the WWTU. However, the material released from the building in Tank Farm #3 was a hazardous waste (F034), but the facility had not identified it as such. Failure to determine if a solid waste is a hazardous waste is a violation of APC&EC Regulation No. 23 § 262.11, which states in part, “A person who generates a solid waste...must determine if that waste is a hazardous waste.” This is also a violation of Ark. Code Ann. § 8-7-205(1).
- Failure to engage in proper hazardous waste management and allowing hazardous waste to enter the environment. This is a violation of APC&EC Regulation No. 23 § 2(d) which states in part, “Any of the following acts shall be considered a violation of this Regulation . . . (d) To engage in hazardous waste management contrary to the provisions of this Regulation or in such a manner or place as to create or as is likely to be created a public health hazard...[.]” This is also a violation of Ark. Code Ann § 8-7-205(1).

SJC is stated to have met with ADEQ and also provided a response to the CEI report. Further, SJC is stated to have provided ADEQ documents demonstrating that repairs and replacement parts had been completed within Tank Farm 3 to mitigate condensation, eliminate potential pathways for liquid migration from the farm or accumulation within secondary containment, with affected soil being drummed and disposed of at a TSD facility.

The CAO requires that within the effective date of the document, SJC submit documentation to ADEQ that a hazardous waste determination has been conducted on any material or condensation released in accordance with Regulation No. 23 § 262.11. Further documentation must be provided that no hazardous waste is being discharged from Tank #3 and entering the environment within 30 calendar days of the effective date of the CAO.

SJC must also submit documentation that the area outside of Tank Farm #3 where contaminated gravel and soil was located has been properly remediated. Further, SJC is required to conduct an internal Environmental Compliance Audit of all hazardous waste management units and related activities. A report must be submitted to ADEQ describing actions to achieve and maintain compliance with respect to any instances of noncompliance detected by the CAO and the Internal Compliance Audit. In addition a Pollution Prevention Study must be undertaken to investigate ways to reduce the amount of waste from the Facility.

A civil penalty of \$7,500 is assessed.

A copy of the CAO can be found [here](#).