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Emergency Order of the Arkansas Department of Energy and Environment - Division of Environmental Quality Director: Fort Smith Used Oil Processing Facility

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Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) Director Becky Keogh issued on May 6th an Emergency Order (“EO”) to Ashish Sanon and Fort Smith Petro Environmental, LLC (“Fort Smith Petro”).

Fort Smith Petro is stated to operate a used oil processing facility in Fort Smith, Arkansas (“Facility”).

The EO describes the Facility as having nine aboveground storage tanks and one lay down recovery tank. Further, it is stated to have a secondary containment structure for the aboveground storage tanks and the lay down recovery tank. A frac-tank with a separate containment area is stated to be located adjacent to the aboveground storage tanks and the lay down recovery tank.

A Clean Water Act National Pollution Discharge Elimination System Industrial Stormwater General Permit is stated to have been previously issued to the Facility.

A release is stated to have occurred at the Facility in 2016. In response DEQ issued Emergency Order LIS 16-048 to Ashish Sanon and Fort Smith Petro (collectively, “Parties”).

Both parties are stated to have failed to retain a response contractor to remove all released waste materials and undertake other requested activities as mandated by the previous EO. DEQ therefore filed a lien for costs in the amount of \$75,485.02 on the property for monies it expended to undertake the requested activities.

DEQ is stated to have received a complaint on March 10, 2021, reporting that Sebastian County Office of Emergency Management (“OEM”) was investigating a release at the Facility and the City of Fort Smith Fire Department had responded and contained the release. Waste oil or other unidentified pollutants within the secondary containment area and apparent petroleum-based product outside of the containment area are stated to have been identified. Breaches in the concrete containment wall for the tanks are also referenced in the EO.

Because of the weather forecast indicating heavy rain for the Fort Smith area as of April 30, 2021, and past and present conditions documented at the Facility, the DEQ Director determined that an emergency existed and issued a verbal order on April 30, 2020, pursuant to Ark. Code Ann. § 8-7-508(k).

The EO requires the parties to take certain actions. These include providing that a contractor will be on sight and undertake immediate action to remove all free liquid from the containment areas so that no waste oil or other identified pollutants are likely to be discharged to a referenced creek.

If the referenced parties do not undertake the requested action, DEQ will engage its contractors. The EO provides that the referenced parties will be responsible for the costs incurred by DEQ.

The EO also references other actions that the parties should take in terms of periodic updates and a plan detailing actions to be taken and a timeline for the complete removal of waste oil or other identified pollutants from the tanks and remediation of the containment site at the Facility and the surrounding area.

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