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Asbestos Enforcement: Arkansas Department of Energy and Environment – Division of Environmental Quality and Springdale Operator Enter into Consent Administrator Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality (“DEQ”) and Clay Cole Construction Corporation (“CCCC”) entered into an October 20th Consent Administrative Order (“CAO”) addressing an alleged violation of Arkansas Pollution Control and Ecology Commission (“APC&EC”) Regulation 21 (Asbestos Regulations). See LIS No. 21-113.

The CAO provides that CCCC demolished or caused to be demolished a structure formerly located in Springdale, Arkansas (“Site”).

The structure referenced in the CAO is stated to constitute a facility as defined in APC&EC Regulation 21, Chapter 4. Further, CCCC is stated to meet the definition of an “owner or operator of a demolition or renovation activity” as defined in APC&EC Regulation 21, Chapter 4.

DEQ is stated to have received a complaint of demolition activities occurring at the Site on May 6th.

DEQ personnel investigated the demolition complaint on May 7th. During such investigation DEQ personnel are stated to have observed evidence of demolition activities including piles of construction and demolition waste and dust emissions.

CCCC is stated to have failed to conduct or have conducted a thorough asbestos inspection of the Site prior to demolition. Such alleged failure is stated to violate APC&EC Reg. 21.501. It is also stated to have been determined that CCCC failed to submit a written Notice of Intent (“NOI”) and appropriate NOI fee to DEQ at least 10 working days prior to commencing the demolition activity. Further, the CAO provides that no asbestos inspection was conducted prior to the demolition activity; therefore the appropriate fee amount could not be determined at that time.

In response to DEQ’s notification, CCCC submitted an NOI, waste disposal receipts, bulk sample analysis results, and a copy of the demolition permit issued by the City of Springdale to DEQ for the demolition conducted at the Site.

CCCC responded to a proposed CAO on September 20th stating that an asbestos inspection was completed prior to the commencement of demolition. Further, the response is stated to have included results from the bulk sampling conducted on April 20th. A review of the bulk sampling results by DEQ personnel is stated to have indicated that the samples were not collected by an Arkansas licensed asbestos inspector and therefore determined to be invalid.

CCCC neither admits nor denies the factual and legal allegations contained in the CAO.

The CAO requires that within 30 calendar days of the effective date of the document that CCCC take an Asbestos Two Hour Regulatory Awareness Class. Further, within 45 calendar days of the effective date of the CAO, CCCC is required to submit to DEQ a certificate of completion for the Asbestos Two Hour Regulatory Awareness Class.

The CAO assesses a civil penalty of \$3,200.

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