



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Hazardous Waste Enforcement: U.S. Environmental Protection Agency/Louisiana Department of Environmental Quality and Operator of Former Louisiana Fertilizer Manufacturing Facility Enter into Consent Decree

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The United States Department of Justice (“DOJ”) on behalf of the Environmental Protection Agency (“EPA”) and the Louisiana Department of Environmental Quality (“LDEQ”) entered into a Consent Decree (“CD”) with PCS Nitrogen Fertilizer, L.P. (“PCS”) to remedy certain alleged hazardous waste issues at a former fertilizer manufacturing facility (“Facility”) it operated in Geismar, Louisiana.

The CD resolves alleged violations of the Resource Conservation and Recovery Act (“RCRA”) at the Facility and is being filed in the United States District Court for the Middle District of Louisiana.

The Facility is stated to have consisted of a main plant which included the former sulfuric acid, phosphoric acid, and fertilizer manufacturing plants. Also encompassed by the Facility were phosphogypsum stacks and associated surface impoundments.

EPA and LDEQ are stated to have conducted a RCRA inspection of the Facility in February 2004. Further EPA re-inspections of the Facility are stated to have been conducted in April 2005 and December 2017.

DOJ and LDEQ alleged in a judicial complaint the following violations:

- Failure to make hazardous waste determinations
- Failure to perform land disposal restriction determinations
- Storage of hazardous waste (Dearsenate) without a permit or interim status
- Treatment, storage, and disposal of hazardous waste in the Gypsum Stack System, surface impoundments, and tanks, and leaking/disposal of hazardous wastes outside the Gypsum Stack System, without a permit or interim status
- Failure to submit required hazardous waste generation annual reports to the LDEQ
- Failure to establish an adequate cost estimate for closure of all units that received hazardous waste
- Failure to establish adequate financial assurance for closure of all units that received hazardous waste

- Failure to prepare an adequate cost estimate for post-closure of all units that received hazardous waste
- Failure to establish adequate financial assurance for post-closure of all units that received hazardous waste
- Failure to establish adequate financial assurance for third party liability at the Geismar Facility

The activities (i.e., injunctive relief) and/or part of the Facility required to be addressed in the CD include:

- Hazardous waste determination
- Site assessment, corrective action, and groundwater monitoring
- Gypsum Stacks
- Closure
- Financial assurance

PCS is also stated to have already undertaken a number of activities at the Facility in addition to the required injunctive relief.

DOJ has estimated that PCS will spend over \$84 million at the Facility.

A civil penalty of \$1,510,023 is assessed.

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