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Wastewater Enforcement: Tennessee Department of Environment & Conservation Proposed Order/Assessment Addressing Claiborne County Coal Refuse Disposal Area

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The Tennessee Department of Environment & Conservation (“TDEC”) issued a July 13th proposed Director’s Order and Assessment (“Order”) to Kopper Glo Mining, LLC (“Kopper”). See Case No. MGR22-0118.

The Order provides that Kopper operates a coal refuse disposal area (“Facility”) in Claiborne County, Tennessee.

The TDEC is stated to have issued on December 22, 2020, a National Pollutant Discharge Elimination System (“NPDES”) permit to the coal refuse Facility. Such NPDES permit is stated to authorize the discharge of treated mine wastewater and stormwater to an unnamed tributary to Tackett Creek via Outfall 001.

The Order provides that Kopper has appeared on the United States Environmental Protection Agency Quarterly Non-Compliance Report for effluent limitation exceedances in multiple quarters during the monitoring period of December 1, 2022, to January 1, 2023. Further, during the monitoring period of January 1, 2022, to January 31, 2023, Kopper is stated to have self-reported effluent limitation exceedances for selenium on its Discharge Monitoring Reports.

The Order also provides that during the monitoring period of February 1, 2023, to March 31, 2023, Kopper failed to submit certain Discharge Monitoring Reports.

The Order assesses a total civil penalty of \$42,432. \$8,486.40 is described as an upfront allocation of the penalty on or before the 31st day after receipt of the Order. The remaining \$33, 945.60 is stated to be contingent upon compliance with certain corrective actions required by the Order.

The corrective actions include:

- Submission of a Corrective Action Plan/Engineering Report.
- Upon Division approval of the Corrective Action Plan/Engineering Report, provide certain progress reports.

- Following the completion of all measures in the Corrective Action Plan/Engineering Report, submit a final report.
- For one year following completion of the Corrective Action Plan/Engineering Report, maintain substantial compliance with the NPDES permit.

The Order provides certain appeal rights.

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