

BEFORE THE MISSISSIPPI COMMISSION
ON ENVIRONMENTAL QUALITY

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

COMPLAINANT

VS.

ORDER NO. 6824 17

APPLEWHITE RECYCLING SYSTEMS LLC
PO BOX 696
GAUTIER, MISSISSIPPI 39553

RESPONDENT

AGREED ORDER

COME NOW the Mississippi Commission on Environmental Quality (Commission), acting through the staff and Executive Director of the Mississippi Department of Environmental Quality (MDEQ), Complainant, and Applewhite Recycling Systems LLC, Respondent, in the above captioned cause and agree as follows:

1.

By letter dated June 5, 2017, Respondent was contacted by Complainant and notified of the following violations of the administratively-continued Land Disposal Storm Water General Permit No. MSR500028 (the "Permit") at the Applewhite Recycling Systems LLC Class I rubbish site ("Site") in Jackson County, Mississippi:

- A. Part III.C of the Permit regarding the failure to implement the approved storm water pollution prevention plan.
- B. Part III.C.6 of the Permit which states *"The owner or operator shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which may increase the discharge of pollutants to State waters or the plan proves to be ineffective in controlling storm water pollutants, and shall submit it to the OPC*

within 30 days of amendment.”

- C. Part IV.A.2 of the Permit which states *“Storm water discharges shall be free from eroded soils and other materials that will settle to form objectionable deposits in receiving waters.”*
- D. Part IV.B of the Permit which states *“During coverage under this permit, all areas contributing to storm water discharges associated with industrial activity must be inspected as needed but no less than once annually. The inspection must evaluate whether the storm water pollution prevention plan adequately minimizes pollutant loadings and is properly implemented in accordance with the terms of this permit or whether additional control measures are needed.”*
- E. Part IV.C of the Permit which states *“The inspections described in (B) must be reported on copies of the form provided in Part VII. The reporting form(s) is(are) to be submitted annually postmarked no later than the 28th day of January. The first submission may be for less than a 12-month period.”*
- F. Part IV.E.2 of the Permit which states *“The owner or operator shall notify the Mississippi Office of Pollution Control (OPC) orally within 24 hours from the time he or she becomes aware of unanticipated noncompliance. A written statement shall be provided to the OPC within 5 working days of the time he or she becomes aware of the circumstances. The written report shall describe the cause, the exact dates and times, of the noncompliance and, if the noncompliance has not ceased, the anticipated time for correction.”*

2.

Respondent has submitted an updated Storm Water Pollution Prevention Plan on March 24, 2017, and supplemented on June 23, 2017, August 21, 2017 and September 26, 2017 and has provided written responses dated May 24, 2017, June 30, 2017 and November 2, 2017, which assert that Respondent has returned to compliance regarding violations 1.A, 1.B, 1.D, and 1.E above.

3.

In lieu of a formal enforcement hearing concerning the violations listed above, Complainant and Respondent agree to settle this matter as follows:

- A. Respondent agrees to pay and Complainant agrees to accept a civil penalty in the amount of \$45,000. Respondent shall pay this penalty to MDEQ within forty-five (45) days after this Agreed Order has been executed by the MDEQ Executive Director or his designee (the "Effective Date"). The settlement payment shall be submitted to:

Mississippi Department of Environmental Quality
Attn: Adrienne Brantley
P.O. Box 2339
Jackson, MS 39225

- B. Respondent shall develop and submit to MDEQ for approval a "Sampling and Analysis Plan" for the dredge spoils managed and disposed of onsite. This "Sampling and Analysis Plan" shall be submitted to MDEQ within thirty (30) days of the Effective Date.

- C. The "Sampling and Analysis Plan" shall, at a minimum, ensure the following:

1. The collection of a minimum of two (2) composite samples of the dredge spoils from each of the following areas: the west bermed/affected area, the north bermed/affected area, and from dredge spoils applied as cover material in at least two (2) areas within the permitted disposal footprint.
2. The minimum of eight (8) samples required by Condition 3.C.1 shall be analyzed for metals (8 RCRA) and all polychlorinated dioxins and polychlorinated dibenzofurans with minimum detection levels at or below the MDEQ Tier 1 TRG unrestricted remediation goal level.
3. The sampling and analysis required in Condition 3.C.1 and 3.C.2 above shall be completed within thirty (30) days of MDEQ approval of the "Sampling and Analysis Plan".
4. Respondent shall notify MDEQ of the anticipated sampling date(s) at least seven (7) days prior to the sampling event and shall allow for split sampling if requested by MDEQ.

- D. Upon completion of the sampling and analysis required by Condition 3.C.1-4 above, Respondent shall develop and submit to MDEQ, for review and approval, a “Dredge Spoil Remediation Plan” within ninety (90) days of the Effective Date. This plan shall provide, at a minimum, the analytical information required in Condition 3.C.2 above, a detailed description of any proposed actions to remediate dredge spoils on the Respondent’s property, and a schedule for completion of such actions, which shall not extend beyond June 30, 2018.
- E. By letter dated October 26, 2017, the Department of the Army, Corps of Engineers (the “Corps”) issued a “Notice of Violation and Non-Compliance” to Waste Pro, USA, parent company of the Respondent, for “...unauthorized discharge of dredged and/or fill material into waters of the United States...”. In response, Waste Pro, USA is required by the Corps to develop and implement a “Corrective Action Plan”. In conjunction with the Corps directive, the Respondent shall implement the “Dredge Spoil Remediation Plan” required by Condition 3.D above, only after review and approval by MDEQ and only in compliance with the conditions of the “Corrective Action Plan” approved by the Corps. Respondent shall notify MDEQ in writing if compliance with the Corps-approved “Corrective Action Plan” may cause Respondent to fail to comply with the deadlines established in Conditions 3.B, 3.C or 3.D of this Order.
- F. Respondent shall modify the submitted Storm Water Pollution Prevention Plan for the Site as necessary to comply with the MDEQ-approved “Dredge Spoil Remediation Plan” and /or any Corps approved “Corrective Action Plan”.
- G. Respondent agrees to pay a stipulated penalty to Complainant, due within thirty (30) days of written notification from MDEQ, in the amount of \$250 per day if compliance is not met on or before each date specified in Conditions 3.A, 3.B, 3.C, and 3.D of this Order.

4.

Nothing in this Agreed Order shall limit the rights of MDEQ or the Commission in the event Respondent fails to comply with this Agreed Order. The Agreed Order shall be strictly construed to

apply to those matters expressly resolved herein.

5.

Nothing contained in this Agreed Order shall limit the rights of MDEQ or the Commission to take enforcement or other actions against Respondent for violations not addressed herein and for future violations of environmental laws, rules, and regulations.

6.

Respondent understands and acknowledges that it is entitled to an evidentiary hearing before the Commission pursuant to Miss. Code Ann. § 49-17-31, and that it has made an informed waiver of that right.

ORDERED, this the 20th day of DECEMBER, 2017/2018.

MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY

BY: 

GARY C. RIKARD
EXECUTIVE DIRECTOR
MISSISSIPPI DEPARTMENT
OF ENVIRONMENTAL QUALITY

AGREED, this the 18th day of December, 2017/2018.

APPLEWHITE RECYCLING SYSTEMS LLC

BY: N. Wood

TITLE: Dir. of operations

STATE OF Florida

COUNTY OF Seminole

PERSONALLY appeared before me, the undersigned authority in and for the jurisdiction aforesaid, the within named Neil Wood who first being duly sworn, did state upon his/her oath and acknowledge to me that he/she is the Dir. of Operations of Applewhite Recycling Systems LLC and is authorized to sign and enter this Agreement.

SWORN AND SUBSCRIBED BEFORE ME, this the 18th day of Dec., 2017/2018.

Jenifer Krieger-Walters
NOTARY PUBLIC

My Commission expires: 7/27/2021

