

**ALABAMA DEPARTMENT
OF ENVIRONMENTAL MANAGEMENT**

In The Matter Of:)

Mr. Vikash Rohella and)
Dodson Oil Co. of Fayette, Inc.)

Proposed
ADMINISTRATIVE ORDER

Dodson Oil)
Fayette, Fayette County, Alabama)
Facility I.D. No. 25750-057-016840)
AST Incident No. AST24-01-01)
NPDES Permit ALG340086)

No. _____

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, §§ 22-22A-1 to 22-22A-17 Ala. Code, as amended; the Alabama Water Pollution Control Act, §§ 22-22-1 to 22-22-14 Ala. Code, as amended; and the ADEM Administrative Code of Regulations (ADEM Admin. Code r.) promulgated pursuant thereto, the Alabama Department of Environmental Management (the “Department” or “ADEM”) makes the following FINDINGS:

1. The Alabama Department of Environmental Management (hereinafter “the Department”) is a duly constituted department of the State of Alabama pursuant to Ala. Code §§ 22-22A-1 to 22-22A-17, as amended. Pursuant to Ala. Code § 22-22A-4(n), as amended, the Department is the state agency responsible for the promulgation and enforcement of water pollution control regulations in accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 to 1388. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, Ala. Code §§ 22-22-1 to 22-22-14, as amended and the regulations promulgated under this Act.

2. Vikash Rohella and/or Dodson Oil Co. of Fayette, Inc. (hereinafter, "the Owners"), are responsible for the release of pollutants to groundwater at Dodson Oil (hereinafter, “the Facility”) that is located at 314 Sipsey Street, Fayette, Fayette County, Alabama, which is the subject of this administrative order.

3. Pursuant to § 22-22A-4(n), Ala. Code, as amended, ADEM is the State Environmental Control Agency for the purposes of federal Environmental Laws, including 42 U.S.C. §§ 300f, et. seq.,

as amended.

4. ADEM is authorized to administer and enforce the provisions of Alabama Water Pollution Control Act, § 22-22-1 et. Seq., Ala. Code, as amended, including § 22-22-9(i)(1), which authorizes the Department to issue Orders abating discharges of pollutants into waters of the state.

5. ADEM Admin Code r. 335-6-8-.05 prohibits the unpermitted discharge of fluids and/or pollutants to groundwater and/or soils

6. Pursuant to ADEM Admin. Code r. 335-6-8-.06(1)(b), Owners shall take immediate action to prevent any further unauthorized discharge of fluids and/or pollutants into the soil and/or groundwater.

7. Pursuant to ADEM Admin. Code r. 335-6-8-.06(1)(c), Owners shall take immediate action to identify and mitigate threats which may be posed to human health or the environment.

8. Pursuant to ADEM Admin. Code r. 335-6-8-.06(1)(d) Owners are required by the Department to conduct an investigation to determine the lateral and vertical extent of soil and ground water contamination for the pollutants likely to be present considering the source and nature of the unauthorized discharge. This investigation shall be conducted within the time frame and according to the requirements identified by the Department.

9. Pursuant to ADEM Admin. Code r. 335-6-8-.06(1)(e), Owners are required to prepare and implement a corrective action plan sufficient to mitigate the impact or potential impact of the unauthorized discharge to the surrounding population and the environment. The corrective action plan shall be prepared to address risks to human health and the environment and shall take into account current and future exposure pathways and receptors, toxicity of pollutants, current and reasonable future land uses, and current and future use of aquifers. The corrective action shall be conducted within the time frame and according to site-specific requirements identified by the Department.

10. A release was reported to the Department on January 19, 2024 through the National Response Center. The release referenced off-road diesel from an Aboveground Storage Tank (AST) of an unknown quantity. The Departmental observed that approximately 1000 feet of open storm drainage ditch was impacted by off-road diesel discharging from the AST.

11. On February 20, 2024, the Department issued a Notice of Requirement to Conduct Investigative and Corrective Actions letter (NOR) to the Owners assigning AST Incident # AST24-01-01 as a release incident. This letter required initial abatement measures to be performed as well as a

Preliminary Investigation, with the Department to receive documentation of these activities in separate reports. The Initial Abatement Report was required to be submitted to the Department within 20 days from receipt of the letter, pursuant to ADEM Admin. Code r. 335-6-8-.06(1)(b)(c). The Preliminary Investigation Report was required to be submitted to the Department within 60 days from receipt of the letter, pursuant to ADEM Admin. Code r. 335-6-8-.06(1)(d)

12. On January 23, 2024, Department personnel conducted a site inspection of the facility. The site inspection revealed that cleanup activities had been initiated, but not completed.

13. On March 11, 2024, Department personnel conducted a site inspection of the facility. There was a noticeable odor of diesel fuel. Site conditions appeared unchanged since the January 23, 2024 inspection.

14. The Department has not received the Initial Abatement Report as required in the Department's letter that was issued February 20, 2024.

15. The Department has not received the Preliminary Investigation Report as required in the Department's letter that was issued February 20, 2024.

16. ADEM Admin. Code r. 335-6-6-.03 (2) states that no person, required to apply for a storm water discharge permit according to 40 CFR §122.26 (2016), shall discharge pollutants into waters of the state without first having applied for a valid NPDES permit, coverage under a valid General Permit, or coverage under a valid NPDES Registration. At the time of the release, the facility was operating a bulk terminal without an NPDES Permit.

17. 40 CFR Part 112 requires a facility that has an aggregate aboveground oil storage capacity greater than 1,320 U.S. gallons or a completely buried storage capacity greater than 42,000 U.S. gallons and a reasonable expectation of an oil discharge into or upon navigable water of the U.S. or adjoining shorelines to prepare, implement, and maintain a Spill Prevention, Control (SPCC) Plan. At the time of the release, the secondary containment, as required by the SPCC Plan, was not properly operated/maintained to contain the release.

18. On February 8, 2024, the Department issued a Notice of Violation (NOV) to the Owners. The NOV required the Owners to submit a report, prepared by a Professional Engineer, that addresses the release and the corrective / preventive measures taken to complete remediation of the affected areas and to eliminate such releases in the future. The report must address the corrective maintenance on the secondary containment, updates to the SPCC Plan, and additional cleanup activities

(e.g., removal of any additional released material and removal of impacted soils). The report was required to be submitted to the Department within 30 days from the receipt of the NOV, however the Department has not received the report as required.

19. On April 29, 2024, the Department issued a second Notice of Violation (NOV) to the Owners for failure to respond to the February 20, 2024, NOR. Owners have failed to respond to the April 29, 2024, NOV and the Preliminary Investigation Report required by the February 20, 2024, NOR,.

20. In arriving at the civil penalty assessed in this matter, the Department has considered the following:

(a) **SERIOUSNESS OF THE VIOLATIONS:** In arriving at the civil penalty, the Department considered the general nature and magnitude of the violation(s) along with the available evidence of irreparable harm to the environment and threat to the health or safety of the public.

(b) **STANDARD OF CARE:** In considering the standard of care manifested by the Owners, the Department noted it issued two Notices of Violations to which the Department has received no response, and that the Owners have failed to return to compliance.

(c) **ECONOMIC BENEFIT WHICH DELAYED COMPLIANCE MAY HAVE CONFERRED:** The Department has determined that there was no significant economic benefit.

(d) **EFFORTS TO MINIMIZE OR MITIGATE THE EFFECTS OF THE VIOLATION(S) UPON THE ENVIRONMENT:** The Department is unaware of any efforts by the Owners to mitigate as a result of the alleged violations.

(e) **HISTORY OF PREVIOUS VIOLATIONS:** The Department is unaware of any history of similar previous violations not addressed above.

(f) **THE ABILITY TO PAY:** The Department is unaware of any evidence of the Owners' inability to pay the civil penalty.

ORDER

Based upon the foregoing FINDINGS and pursuant to §§ 22-22-9, 22-22A-5(10), 22-22A-5(12), and 22-22A-5(18), Ala. Code, as amended, it is hereby ORDERED:

A. That, not later than forty-five days of the issuance of this Order, the Owners shall pay the Department a civil penalty in the amount of \$22,500 for the violations cited herein. The penalty

shall be made payable to the Alabama Department of Environmental Management by certified or cashier's check or any other method of payment acceptable to the Department and shall be remitted to:

Office of General Counsel
Alabama Department of Environmental Management
P.O. Box 301463
Montgomery, Alabama 36130-1463

B. That, not later than sixty days of the issuance of this Order, the Owners shall complete initial abatement activities pursuant to ADEM Admin. Code r. 335-6-8-.06(1)(b) and (c), and submit to the Department an Initial Abatement Report documenting these activities.

C. That, not later than sixty days of the issuance of this Order, the Owners shall complete the Preliminary Investigation activities pursuant to ADEM Admin. Code r. 335-6-8-.06(1)(d) and submit to the Department a Preliminary Investigation Report documenting these activities.

D. The Owners shall conduct such additional assessment activities as may be required by the Department. They shall develop a corrective action plan and schedule of implementation for remediation of soil and groundwater contamination if required by the Department. The Owners shall implement the corrective action plan as accepted by the Department, in accordance with the schedule of implementation. They shall make any changes or additions to any assessment plan, corrective action plan, or schedules of implementation, which are required by the Department. The Owners shall comply with the above requirements as set forth above.

E. That, should any provision of this Order be declared by a court of competent jurisdiction or the Environmental Management Commission to be inconsistent with federal or state laws, and therefore unenforceable, the remaining provisions hereof shall remain in full force and effect.

F. That, except as otherwise set forth herein, this Order is not and shall not be interpreted to be a permit or modification of a permit under federal, state or local laws, and shall not be construed to waive or relieve Owner of the obligation to comply in the future with all applicable law.

G. That the issuance of this Order does not preclude the Department from seeking civil penalties, criminal fines or other appropriate sanctions or relief against Owner of the violations cited herein.

H. That failure to comply with the provisions of this Order shall constitute cause for commencement of legal action by the Department against the Owners for recovery of civil penalties, criminal fines, or other appropriate sanctions or relief.

ORDERED and ISSUED this the _____ day of _____, 2024.

Lance R. LeFleur, Director
Alabama Department of Environmental Management
Management

DRAFT

Attachment 1

**Dodson Oil Company of Fayette Inc
Fayette, Fayette County**

Violation*	Number of Violations*	(A)	(B)	(C)
		Seriousness of Violation*	Standard of Care*	History of Previous Violations*
Unpermitted discharge	1	\$ 10,000.00	\$ 2,500.00	\$ -
Operating without a NPDES permit	1	\$ 2,500.00	\$ 2,500.00	\$ -
Failure to respond to a 2/8/2024 (Water Division) Notice of Violation (NOV)	1	\$ 2,000.00	\$ 500.00	\$ -
Failure to respond to a 4/29/2024 (Land Division) Notice of Violation (NOV)		\$ 2,000.00	\$ 500.00	

Additional Adjustments due to negotiations, receipt of additional information, or public comment

Mitigating Factors (-)	
Economic Benefit (+)	
Ability to Pay (-)	
Other Factors (+/-)	
Total Adjustments (+/-)	

\$16,500.00	\$6,000.00	\$0.00
Total (A)	Total (B)	Total (C)
Base Penalty Total [Total (A) + Total (B) + Total (C)]		\$22,500.00
Mitigating Factors (-)		
Economic Benefit (+)		
Ability to Pay (-)		
Other Factors (+/-)		
INITIAL PENALTY		\$22,500.00
Total Adjustments (+/-)		\$0.00
FINAL PENALTY		\$22,500.00

Footnotes

*See the "Findings" portion of the Order for a detailed description of each violation and the penalty factors